United States Court of Appeals

for the Second Circuit

APPENDIX

76-6076

United States Court of Appeals

For the Second Circuit

B

Docket No. 76-6076

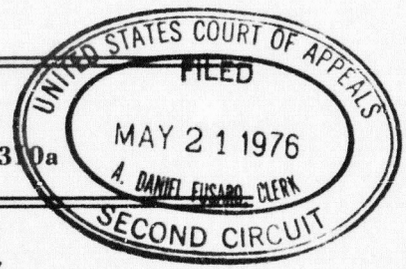
W. J. USERY, Secretary of Labor,
UNITED STATES DEPARTMENT OF LABOR,

Appellee,

against

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, INTERNATIONAL MARITIME DIVISION, ILA, AFL-CIO,

Appellant.



JOINT APPENDIX

Volume 6 — 1907a to 2370a

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Plaintiff's Reply Memorandum

MOTLEY, J.

U.S. DISTRICT COURT
FILED
MAY 23 1975
S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES D. HODGSON, Secretary of Labor, United States Department of Labor,

Plaintiff,

-v-

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, INTERNATIONAL MARITIME DIVISION, ILA, AFL-CIO,

Defendant.

72 Civ. 5031 (CBM)

1917a

PLAINTIFF'S REPLY MEMORANDUM

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

JAMES D. HODGSON, Secretary of Labor, United States Department of Labor,

Plaintiff,

- v -

72 Civ. 5031 (CBM)

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, INTERNATIONAL MARITIME DIVISION, ILA, AFL-CIO,

Defendant.

- x

PLAINTIFF'S REPLY MEMORANDUM

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PRELIMINARY STATEMENT

On December 17, 1974 the Government moved for summary judgment requiring the defendant union to conduct a new election of officers subject to the Secretary of Labor's supervision. After having been granted an extension of time to respond, the defendants served responsive papers on January 23, 1975. By letter of February 5, 1975 the Government suggested to the Court that it would be appropriate to defer consideration of the defendant's cross motion for summary judgment brought against those violations alleged in the Government's complaint but for which the Government did not seek summary judgment. The Government suggested consideration of these additional violations would be superfluous if the Government's motion for summary judgment was granted. By letter dated March 3, 1975 the Court adopted the Government's suggestion and deferred defendant's cross-motion.

During the period October - December 1974, defendant's regularly scheduled election of officers was conducted. Ballots were counted shortly thereafter and in late January 1975 the A.A.A. (the independent organization again conducting the election for the union) certified the results. At that time it was determined a run-off election for International President and International Vice-President would be required, no candidate having received the necessary 40% plurality. Incumbent International President O'Callaghan ran second to insurgent Frank Scavo and they are now engaged in a run-off.

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Incumbent International Vice-President Caldwell in likewise engaged in a run-off against insurgent Gerald L. Johnson. The incumbent International Secretary-Treasurer, Robert J. Lowen, won re-election, defeating among others Timothy Brown.

The 1974 election of officers has no bearing on the instant case (see Point II, infra and Point VI of our initial Memorandum).* The Court has granted a request from Scavo, Johnson and Brown (the "Scavo Group"), however, to file an amicus brief. Their request to intervene was denied. The Scavo Group filed its Amicus Curae Brief on or about March 21, 1975.

We now submit this Reply Memorandum to dispel questions, if there can be any, that may have arisen as a result of the union's response or the Scavo Group's amicus brief.

Upon all the papers heretofore filed with the Court, we submit summary judgment for the Secretary of Labor is in order and that it will be the most appropriate remedy in view of the facts and law and the history of this case.

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* The Secretary of Labor has instituted an action contesting certain aspects of the 1974 election (75 Civ. 2095 (CMB)). In the event the instant action is decided for the Secretary, this new matter should become moot in the course of certifying the results of the supervised election.

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ARGUMENT

POINT I

SUMMARY JUDGMENT FOR THE SECRETARY IS APPROPRIATE

The purpose of summary judgment is to pierce the allegations of the pleadings and to allow the trial court to dispose of a case in advance of a hearing on the merits when the pleadings, depositions, answers to interrogatories, admissions and affidavits show there is no genuine issue as to any material fact. In effect the moving party takes the position that he is entitled to prevail as a matter of law because his opponent has no valid claim or defense to the action. See generally Wright & Miller, Federal Practice and Procedure: Civil §§ 2711 and 2712; Bryant v. Commonwealth of Kentucky, 490 F.2d 1273 (6th Cir. 1974).

Rule 56, Fed. R. Civ. P. in pertinent part reads as follows:

> (c) . . . The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. . . . [Emphasis supplied.]

From the documents now before this Court it is unmistakeably clear there are no material facts and no genuine issues to be tried such as to prevent the Court from granting the relief the Secretary seeks.

To oppose a motion for summary judgment a party may submit affidavits, but pursuant to Rule 56(e), Fed. R. Civ. P., said affidavits "shall be made on personal knowledge" and "shall set forth such facts as would be admissible in evidence". Rule 56(e) further provides, in pertinent part:

> (e) . . . When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

As will be amply demonstrated, defendant's opposing affidavits do not conform to this rule. They contain nothing more than bald conclusion and legal argument and only such factual statements that might be sufficient, if at all, to put non-material facts in dispute. It is well established that such affidavits cannot be sufficient to defeat a motion for summary judgment. See Donnelly v. Guion, 467 F.2d 290 (2d Cir. 1972); Applegate v. Top Associates, Inc., 425 F.2d 92 (2d Cir. 1970); United States v. Prince, 348 F.2d 746 (2d Cir. 1965).

Not resting on the deficiencies in defendant's affidavits and other papers, however, the plaintiff submits that the facts defendant is unable to contest-based on the

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depositions, admissions, undenied points in the Government's Rule 9(g) Statement, answers to interrogatories, and pleadings, as supported by our initial Memorandum and this Reply Memorandum - conclusively establish the elements of the Government's case and entitle the Secretary to his relief.

The Court of Appeals for the District of Columbia recently held that it is proper to grant summary judgment in cases such as the instant one. In Brennan v. Local Union No. 639, Int. Bro. of Teamsters, etc., 494 F.2d 1092 (D.C. Cir. 1974), the Court granted the Secretary's summary judgment motion after evaluating the material facts and the applicable standards of proof. There, as here, violations of Section 481 were proven creating a prima facie case that such violations "may have affected the outcome of the election". Since the defendant union could not prove with tangible evidence that said violations "did not affect the outcome of the election", as it must to stave off an adverse decision, summary judgment was granted for the Secretary.

It is no less certain in the instant case that summary judgment for the Secretary is warranted. The union should not be permitted to delay further a new election under the Secretary's supervision. As the D.C. Circuit said

> If there are not material facts which are contested it would be sheer folly to require the expense and delay of a trial when other methods of resolution are available. at 1096.

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In our motion papers we have attempted to synthesize the relevant facts and genuine issues and set them out in the context of the statute under which this action was brought. We submit that not one material fact has been put into controversy sufficient to defeat the Secretary's motion. Indeed the Union's denials as set forth in its Statement in Response to Plaintiff's Rule 9(g) Statement are for the large part irrelevant or nothing more than unsupported contradictions of previous admissions or established facts.

In the Appendix hereto we have annexed as Exhibit A, a brief analysis of each of defendant's "denials" contained in its statement in Opposition to Government's Rule 9(g) Statement to show their failings. In addition, whenever appropriate these denials are discussed further in the body of this Reply Memorandum.

Defendant's Memorandum of Law is of no assistance. It provides no support for their legal position and certainly adds no factual matter. The Memorandum merely refers the Court to defendant's affidavits wherein "factual" allegations have been enmeshed with "conclusions" and legal "argument".

These affidavits submitted by defendant do not at all conform to the requirements of Rule 56(e). They do not "set forth specific facts showing there is a genuine issue

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for trial" let alone "such facts as would be admissible in evidence."

Whatever facts the Schwartz Affidavit presents, they are not relevant and are embodied in the form of conclusion and argument and are thus improper. See e.g. Universal Film Exchanges, Inc. v. Walter Reade, Inc., 37 F.R.D. 4 (S.D.N.Y. 1965). The affidavits annexed as exhibits to the Schwartz affidavit are likewise largely irrelevent and argumentative and do no more than attempt to confuse the issues. They certainly do not put issues genuinely in dispute as we carefully show in detail in the subsequent Points herein. And as the Second Circuit noted in Donnelly v. Guion, supra, at 293 (1972): "when a party presents evidence on which, taken by itself, it would be entitled to a directed verdict . . . it rests upon the opposing party at least to specify some opposing evidence which it can adduce and which will change the result".

No more factual information need be gathered for this Court to come to a legal conclusion with respect to this case. The material facts are fully presented.

The Secretary has demonstrated that violations were committed during the 1971 election. The Newsletter and Eleven Pledges were campaign literature distributed in violation of 29 U.S.C. § 481(g) and (c)*. Members were

* See Point II of our initial Memorandum and Point III herein.

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improperly denied the opportunity to participate in the selection of Vice-Presidents (Atlantic) and (Gulf) for the offshore Division in violation of Section 481(e)*. The 1971 election ballots were mailed late and members were denied copies of Local 88 mailing lists in contravention of the IOMM&P Constitution and Offshore Division By-Laws, thereby violating Section 481(e)**. Once these violations are proven, the Secretary establishes a prima facie case that said violations "may have affected the outcome of the election"; and in this instance the defendant cannot, with tangible evidence, prove, as it must, that the violations "did not affect the outcome of the election".***

The necessary conclusion is that the union must be ordered to conduct a new supervised election. As we discuss in Point VI of our initial Memorandum and more elaborately in Point II of this Reply Memorandum, the regularly scheduled unsupervised 1974 election held by the union does not moot the instant case as defendant proposes. And as we show in Point V of our initial Memorandum and in Point VI herein, there is absolutely no justification for defendant's claim that complaining union members failed to timely file the

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* See Point III of our initial Memorandum and Point IV herein.

** See Point IV of our initial Memorandum and Point V herein.

*** See Point II of our initial Memorandum, not refuted by defendant.

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complaints with the Secretary, which triggered this action.

The case can be decided on the papers now before the Court, and we submit an order mandating a new election under the Secretary's supervision should issue.

POINT II

THE SECRETARY'S ACTION WITH RESPECT TO THE 1971 ELECTION IS NOT RENDERED MOOT BY THE 1974 ELECTION

As we showed in Point VI of our Memorandum in support of our motion for summary judgment (pp. 103-108), it has been well settled by the Supreme Court that once the Secretary of Labor commences an action challenging a union election, that action cannot be mooted by an unsupervised subsequent election.

The union nevertheless contends that the instant action is moot because its 1974 election of officers was conducted in conformity with its constitution and as a result of that election "a large majority of the O'Callaghan slate lost" and Captain O'Callaghan (International President) and Captain Caldwell (International Vice-President) have been forced into a runoff.* Schwartz Affidavit, pp. 32-39.

* As noted in the Schwartz Affidavit, p. 32, the union conducted its regularily scheduled election during the period October through December 1974. O'Callahan ran second to an insurgent, Frank Scavo, and is now engaged in a run-off election. Caldwell, too, is engaged in a run-off against a challenger for his Internationl Vice-Presidential position (against Captain Johnson).

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In effect the union is arguing that the unsupervised 1974 election of officers, which has not yet been completed, has cured any defects in the 1971 election. In their Amicus brief, Captains Scavo, Johnson and Brown* ("the Scavo Group") urge that this action be placed in suspense until the run-off election is completed and a determination is made as to the fairness of the 1974 election.** Their position and the union's are identical to the extent both would foreclose the Court from making any determination with respect to the fairness of the 1971 election, except, in a somewhat confused fashion, the Scavo Group also suggests that if Scavo and Johnson lose the run-off, and it is shown O'Callaghan derived some benefit as a result of the 1971 election, the Secretary's suit would not be moot. Scavo Group Brief, p. 18.

Neither the union's nor the Scavo Group's arguments have any merit. Both have attempted to obfuscate the clear meaning of the Supreme Court's opinion in Wirtz v. Local 153, Glass Bottle Blowers Association, 389 U.S. 463 (1968) by selectively quoting portions of it out of

---

* Captain Brown, an insurgent, lost to Captain Lowen, the incumbent International Secretary-Treasurer.

** Of course they suggest that such a determination would be unnecessary if Scavo and Johnson win but argue that if they lose O'Callaghan should have the burden of proving the election was fair.

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context* and by ignoring the cases decided after it. See for example Wirtz v. Hotel, Motel & Club Employees Union, Local 6, 391 U.S. 492, 496-499 and n.9 at 500-501, (1968); Wirtz v. Local Union No. 125, Laborers' International Union of North America, AFL-CIO, 389 U.S. 477, 479 (1968);

* The most egregious use of selective quotation is found at the bottom of page 16 of the Scavo Group's brief. The quote reads as follows:

> "But Congress, when it settled on the remedy of a supervised election, considered the risk of incumbents' influence to be substantial, not a mere suspicion . . . consider the incumbents' possible influence on the new election." Bottle Blowers Association, supra, at 475. (Emphasis supplied [by Scavo]).

The two paragraphs of the opinion from which the quote is taken follow. The portions omitted from the Scavo brief are underlined:

> Respondent argues that granting the Secretary relief after a supervening election would terminate the new officers' tenure prematurely on mere suspicion. But Congress, when it settled on the remedy of a supervised election, considered the risk of incumbents' influence to be substantial, not a mere suspicion. The only assurance that the new officers do in fact hold office by reason of a truly fair and a democratic vote is to do what the Act requires, rerun the election under the Secretary's supervision.
>
> The Court of Appeals concluded that it would serve "no practical purpose" to void an old election once the terms of office conferred have been terminated by a new election. We have said enough to demonstrate the fallacy of this reasoning: First, it fails to consider the incumbents' possible influence on the new election. Second, it seems to view the Act as designed merely to protect the right of a union member to run for a particular office in a particular election. But the Act is not so limited, for Congress emphatically asserted a vital public interest in assuring free and democratic union elections that transcends the narrower interest of the complaining union member. at 475.

Hodgson v. Local Union 400, Bakery & Confectionery Workers International Union of America, AFL-CIO, 491 F.2d 1348, 1349 (9th Cir. 1974); Brennan v. International Union of District 50, Allied and Technical Workers of the United States and Canada, 499 F.2d 1051, n.13 at pp. 1057-1058 (D.C. Cir. 1974); Hodgson v. Local 1299, United Steelworkers of America, 453 F.2d 565, 576-577 (6th Cir. 1971); Wirtz v. Local Union No. 1622, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, 285 F. Supp. 455, 462-463 (N.D. Cal. 1968).

Turning to the Glass Bottle Blowers case, we submit that in view of its unambiguous holding, the union's 1974 election of officers cannot even be considered in this case. Mr. Justice Brennan writing for the Court stated:

> "We therefore hold that when the Secretary of Labor proves the existence of a § 401 violation that may have affected the outcome of a challenged election, the fact that the union has already conducted another unsupervised election does not deprive the Secretary of his right to a court order declaring the challenged election void and directing that a new election be conducted under his supervision." (389 U.S. at 475-476). [Emphasis added]

In reaching this holding, the Court recognized that the interests of a particular union member, such as Scavo, Johnson or Brown, in a particular union election must yield to the public's superior interest in assuring that union

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elections are free and democratic. ". . . Congress emphatically asserted a vital public interest in assuring free and democratic union elections that transcend the narrower interests of the complaining union member." Glass Bottle Blowers, supra at 475. This has been strongly re-emphasized by the Supreme Court in Wirtz v. Local 125, Laborers' International Union of North America, supra, at 482-483 and again in Wirtz v. Hotel, Motel & Club Employees Union, Local 6, supra, at 496-497 (1968). The Court also noted that the Congress, in enacting Section 402 of the Act (29 U.S.C. § 482), determined that only the supervision of the Secretary of Labor could protect the public's interest once a tainted election had been held and the union had failed to remedy the election's abuses prior to the filing of a complaint by a union member pursuant to Section 402(a) of the Act. Glass Bottle Blowers, at 474-475; see also Hodgson v. Local U. 400, Bakery and Confectionery W. I. U, supra, at 1351-1352. The logic for this is clear.

Congress intended to guard against the multiplicity of influences the results of a tainted election may have on subsequent union activities, including on subsequent elections. The results of the 1971 election, for example may not only have allowed incumbents to have maintained a

personal advantage for the 1974 election, but also may have prevented others from rightfully developing the same benefits of incumbency. For example O'Callaghan may not even have made the run-off in 1974 had he not won in 1971 and had Sheldon been the victor, he may have proven himself an effective leader and won re-election outright in 1974, had he run. Others, too, may have witheld their candidacies in 1974 preferring to await an election that was supervised by the Secretary of Labor. In all respects the day to day decisions of the union leadership may have been different over the last three years had other officers been elected in 1971, and such differences may have led to different results in 1974. Just because incumbents do not win re-election does not mean the subsequent unsupervised election was not in some way affected by the results of the challenged election. The possible influences on the outcome of the 1974 election are incalculable and the only way to guard against them is to have the remediel election supervised by the Secretary. A supervised election guards against much more than just incumbents flauting their incumbency at the time of the subsequent unsupervised election.

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The Supreme Court could not have made this plainer:

> Congress chose the alternative of a supervised election as the remedy for a § 401 [29 U.S.C.§481] violation in the belief that the protective presence of a neutral Secretary of Labor would best prevent the unfairness in the first election from infecting, directly or indirectly, the remedial election. Glass Bottle Blowers, at 474.

Only a supervised election would guard against the many possibilities that might result from a tainted election.

If, as both the Union and Scavo group urge, the fairness of intervening elections were to be determinative in Section 482 actions, a union could easily insulate its elections from the Secretary of Labor's supervision. It could do so by delaying the completion of a Section 482 action until after an intervening election were held and then delay an adjudication as to the fairness of that election until after the next election were held. Since this process could go on indefinitely there would be no incentive for incumbent union leadership - who ever it was - to deal seriously with the Department of Labor or complaining union members with regard to remedying election

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abuses*. The Court recognized this danger in Hodgson v. Local Union 400, Bakery & Confectionery Workers International Union of America, AFL-CIO, supra and applied the rule of Glass Bottle Blowers to a special unsupervised "remedial" election which was held even before the Secretary of Labor commenced a Section 482 action, but after a union member had properly filed a complaint with the Secretary under Section 482(a) of the Act.**

---

* Even if the 1974 election could be examined in conjunction with this case, the union's assertion that "the large majority of the O'Callaghan slate have [sic] lost the election" (Schwartz Affidavit, p. 33) is just not true. At the outset O'Callaghan and Caldwell are still engaged in a run-off. Until they lose they are still in power. While O'Callaghan may have "barely succeeded in getting enough votes to be in a run-off" (Schwartz Affidavit, p. 33), the fact is that he may not have gotten even this many votes but for his illegal election in 1971. Further, Lowen, the incumbent International Secretary-Treasurer, did win re-election, and upon examination of the IOMM&P's Election Results (Exh. I in Appendix hereto) as compared to those identified as members of the O'Callaghan Slate (see Exh. J in Appendix hereto - Election Supplement of "Master Mate and Pilot" newspaper wherein O'Callaghan slate members are identified by the slogan "For continued MM&P Progress, Prosperity and Strength Vote for the O'Callaghan Team"), it is noted that 17 out of 35 of those on the O'Callaghan slate running for Offshore Division Offices actually won - i.e. 48.5%. This is hardly the "large majority" that lost.

**Hodgson v. Local Union 400 is discussed at pages 106-107 of our initial memorandum. Neither the Union nor the Scavo Group has discussed it in their briefs. In that case the Court rejected a union position that "[t]he uncontested validity of the second [unsupervised] election deprives the Secretary of any grounds to contest the first, for a condition precedent to his bringing an action in an unremedied violation.'" at 1350.

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Accordingly the elements of an unsupervised supervening election are irrelevant to the consideration of the Secretary's case.* Furthermore any review of a union's unsupervised intervening election by the Court would be inconsistent with the requisite exhaustion provisions of 29 U.S.C. §§ 482(a) and (b).

"...Congress... settled enforcement authority on the Secretary of Labor to insure that serious violations would not go unremedied and the public interest go unvindicated." Wirtz v. Hotel, Motel & Club Employees Union, Local 6, supra, at 498**. (Emphasis added) It is the Secretary's "right to a court order declaring the challenged election void and directing that a new election be conducted under his supervision." Glass Bottle Blowers, at 475-476.

* See also Wirtz v. Local Union No. 1662, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, supra. The Court, at 463, notes that "the fact that no complaint was ever made to the Secretary relating to the second election is irrelevant once the Secretary has established a violation of the Act respecting the first election and this violation 'may have affected the outcome of the election.' 29 U.S.C. 482(c)." That Court on the same page noted that it was also irrelevant that the member who lost the first election and instituted the complaint with the Secretary chose not to run in the unsupervised second election. The union in the instant case hopelessly tries to make a point of the fact that Sheldon, the challenger in 1971, chose not to run in 1974. (Schwartz Affidavit, p. 36).

See also Brennan v. Local 551, United A., A&A Imp. Wkrs. of A. Inc., 486 F.2d 6, 8 (7th Cir. 1973).

** In that case the Supreme Court was asked to review the reasonableness of a by-law provision restricting the number of candidates for office to only a very few members.

(Footnote continues on following page.)

For the reasons enumerated in our initial motion papers and further elaborated upon herein, the 1974 election does not moot the instant action and summary judgment should be granted to the Secretary.

(Footnote continued from previous page.)

At the District Court the union had urged, among other things, that consideration of the questioned by-law provision was moot because the union had liberalized the by-law by amendment. The District Court ruled that the amendment also was unreasonable. While the Supreme Court noted that that part of the District Court's ruling was not before it, it nevertheless stated: "In any event, respondent's argument that the amendment renders this case moot is foreclosed by Wirtz v. Bottle Blowers, supra, at 475-476. See also Wirtz v. Laborers' Union, supra, at 479." n.9, at 500-501. The Supreme Court itself has concluded that the Glass Bottle Blowers case is dispositive of the mootness issue.

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POINT III

THE "NEWSLETTER" AND "ELEVEN PLEDGES" CONSTITUTED CAMPAIGN LITERATURE DISTRIBUTED BY THE INCUMBANTS THEREBY VIOLATING SECTIONS 481(g) and (c)

NEWSLETTER

The Newsletter mailed to the membership on August 19, 1971 violated the prohibitions of 42 U.S.C. §481 in three ways:

1. By preparing and distributing this campaign literature using union resources the union violated 481(g);

2. By distributing the Newsletter using its lists of members, the union did not "refrain from discrimination in favor of or against any candidate with respect to the use of lists of members" in violation of 481(c); and

3. By failing to offer "similar distribution at the request of another bona fide candidate," the union violated 481(c) in yet another way.

These violations and the manner in which they may have affected the outcome of the 1971 election have been discussed at length in Point II of the Government's initial Memorandum.

Defendant now harangues at length about how it used the Newsletter to "strongly urge" the membership to vote, in a referendum*, for affilition with the ILA and condemns the Secretary for even questioning what it terms this customary business of the union (see Defendant's Memorandum, p. 4 and Schwartz Affidavit, p. 13).

Defendant misses the point entirely. Many functions we concede are normal and proper. The Secretary is only arguing in the instant case that when an election is approaching,

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*60th Convention held July 26-28 had approved the taking of a referendum on affiliation and had been the forum for nominating candidates for international office as well.

as was this one, union incumbants must be extra cautious not to use, in whole or in part, union facilities, funds or official publications, for example, as campaign instruments. And when a publication such as the Newsletter is distributed, it must not contain language defaming opposition candidates, nor be delivered at a time when its obvious impact - because of the manner in which the particular subject matter is presented - would have campaign significance.

In this regard the Newsletter did more than report the events of the 60th Convention and merely editorialize its support for affiliation. It demeaned the other major candidate for International President (Sheldon) and promoted the incumbant O'Callaghan and of course his slate of officers.

Defendant virtually admits this to be the case. See Schwartz affidavit, page 13, last paragraph, to wit: "[the Newsletter] swipes at those forces who were against affiliation. . ."*

Further, Judge Croake has already determined that this Newsletter was campaign literature promoting O'Callaghan

*He then tries to argue the focus is on affiliation. The wrong was done, however, and as pointed out in Wirtz v. Independent Workers Union of Florida, 272 F. Supp. 31 (M.D. Fla 1967) it is sufficient to show the document contained passages which were campaign in character.

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and distributed at union expense, and contained "ad hominem attacks upon an opposition candidate, ..." (Sheldon v. O'Callaghan, 335 F. Supp. at p. 327)* Notwithstanding Judge Croake's finding, this Court is certainly permitted to view the tone and content of the document itself,** and we submit in this case it necessarily must conclude the document constituted campaign literature. Given that an election was about to take place, there is no context in which one could conclude otherwise.

Defendant claims it is being subjected to a "damned if you do and damned if you don't" argument suggesting by affidavit (Schwartz Affidavit p. 12-13) that the fact the mailing of the ballots for the election of officers was delayed*** somehow cured the campaign impact of the Newsletter,

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* Counsel for defendant presented the same arguments to Judge Croake as he presents herein, i.e. the focus of the Newsletter was affiliation and was appropriately distributed by the union. Compare the argument contained in affidavit form here (Schwartz Affidavit, p. 11) with the union's memoranda submitted to Judge Crooke before rendering his October 18, 1971 decision and before rendering his endorsement on November 15, 1971. (Appendix hereto, Exhibits C and D.) They are essentially identical.

**In Hodgson v. Liquour Salesmen's Union, Local No. 2, 334 F. Supp. 1369, 1377 (S.D.N.Y.) aff'd. 444 F.2d 1344 (2d Cir. 1971) this Court noted that that defendant union's Journal in "tone and content" constituted campaign literature.

***In point IV of our initial Memorandum of Law we show how this delay, another violation of law, may have affected the outcome of the election as well. It will also be dealt with briefly herein in Point V, infra.

i.e. that had the election ballots been distributed at an earlier date the Secretary, he opines, would have argued the ballots had gone out too close in time to the distribution of the Newsletter.

Nothing could be further from the truth in this case. Not only did the Newsletter villify the opposition, which alone is enough to upset the 1971 election, but also because of the manner and context in which it did promote affiliation and the timing of its distribution, de facto the Newsletter essentially became a campaign tool of incumbant O'Callaghan and his team. Had the Newsletter been written differently it might not have been campaign literature regardless of when it was mailed.

Notwithstanding the defendant's protestations of the Newsletter's innocence (Schwartz Affidavit, p. 11 et. seq.), the Newsletter actually reaffirmed in no uncertain terms that O'Callaghan was for affiliation and that Sheldon was not, and linked the apparent support of the ILA, and others, for affiliation to the maintenance of O'Callaghan as the "top man". Additionally the timing of the Newsletter's distribution is not as pure as counsel for defendant would have this Court believe. Yes, the Newsletter went out August 19, 1971; the referendum ballots were distributed

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August 20, 1971; the election ballots were mailed September 21, 1971. But it is noted also that the referendum lasted for approximately three months as did the election. They overlapped. There was no clear separation of one from the other and indeed by the very terms of the Newsletter itself, that intertwined picture necessarily was painted. The referendum results were counted on November 21, 1971 in the middle of the balloting of officers. The impact of the incumbants' arguments for affiliation as intentionally tied to O'Callaghan certainly was not wiped clean before the election ballots were mailed, let alone before the members voted for officers.*

It appears that what defendant is really arguing is that delay in mailing the ballots may have lessened the impact of this Newsletter. Assuming arguendo that were true, the Government's case is still made.

All that need be shown by the Secretary is that the violation "may have affected the outcome of the election." 29 U.S.C. §482(c)(2); see POINT I in the Government's initial Memorandum. Whether the impact of the Newsletter was greater or lesser is an imponderable, but that it may have had an impact can hardly be questioned.

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*Furthermore the incumbent's did not give the membership a chance to forget the relationship. On November 23, 1971 the incumbents "mailed the Eleven Pledges which not only in itself had "campaign" written all over it, but also announced the result of the referendum and reaffirmed the connection between O'Callaghan and ILA President Teddy Gleason. See Exh. FF, Government's Rule 9(g) Statement.

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In Hodgson v. Liquor Salesman's Union, Local No. 2, 334 F. Supp. 1369 (S.D.N.Y.), aff'd, 444 F.2d 1344 (2d Cir. 1971), this Court, considering violations caused by two editions of a union publication, commented "In cases such as this 'there can be no tangible evidence available' of the effect of the violation." at 1378. The Court in Brennan v. Sindicato Empleados de Equipo Pesado, Etc., 370 F. Supp. 872 (D.C.P.R. 1974) remarked that "A section 401(g) violation [as was the Newsletter] has a potential for influencing every vote cast in an election in a way which is not susceptible of precise measurement." at 879.

The union's "damned if you do - damned if you don't" argument is without merit. The incumbent officers are "damned because they did" send out the Newsletter as a campaign device.

As the Newsletter may have influenced the votes for O'Callaghan, so it may have influenced the votes for all those associated with O'Callaghan.

The Union argues, however, that others on the O'Callaghan team won by greater margins than did O'Callaghan and this therefor rebuts the prima facie case that the Newsletter may have influenced the votes for the teammates. (Schwartz Affidavit, pp. 14-15). Under the applicable law this argument, too, is illogical and without merit.

All that need be shown is that the Newsletter may have influenced the votes cast, and indeed that has been shown, for the union can never show that the Newsletter absolutely did not have an effect on the outcome of each race. Just because O'Callaghan squeaked by avoiding a run-off in 1971, while others may have had greater success, does not mean those who voted for the others were not influenced at all by the Newsletter. Indeed it may very well have been the Newsletter which saved O'Callaghan from a total loss, but it also may have influenced the other contests in some way. The presentation of a sampling of the different margins of victory (Schwartz Affidavit, p. 15) is irrelevant.*

Judge Croake saw the Newsletter as campaign material and ordered certain measures be taken to help remedy the toll it may have already taken. He ordered the IOMM&P to publish and distribute comparable literature submitted by the plaintiffs in that case, in a manner similar to the publication and distribution given the Newsletter. However, as is more fully described in POINT II of the Government's initial Memorandum (pp. 56-62), Judge Croake's final relief came too late.

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*Furthermore it is misleading. For example, while Joseph B. Gaier is shown to have won with a vote of 50.4%, in fact his margin of victory was only 9 votes in a two-way race, i.e., 478-469. See chart to Exhibit EE (for Local 88) - Government's Rule 9(g) Statement. Had there been merely a five vote switch, Gaier would have lost.

First the relief provided was offered only to plaintiffs in that action. While it may be argued that it benefited those associated with plaintiffs (Sheldon, et al.), it certainly did not run to the benefit of third-party candidates who were not plaintiffs, such as candidate Wright (running for International President). Second, as has been numerically demonstrated, so many ballots subject to the influence of the Newsletter had been voted and returned before the union mailed Sheldon's material (November 9, 1971) that when compared to the margins of victory for each incumbent candidate, it is obvious there were more than enough ballots so voted and returned than would be necessary to possibly change the results.* The defendant cannot prove, with tangible evidence, otherwise.

*The chart presented as part of Exhibit EE to the Government's Rule 9(g) statement was prepared from the material supplied during depositions by the AAA (the union's agent for the purpose of conducting the election). The material was painstakenly identified on the record at those depositions which were held on notice to the defendant. The defendant union in its "statement in Response to Plaintiff's Statement under Rule 9(g)" attempts to take issue with the calculations of the votes as taken from the AAA material by merely denying knowledge of the source of the documents. Such denial, of course, is inadequate to contradict the facts contained in the chart. See POINT I, supra and Appendix hereto, Exhibit A. Indeed such assertion is ignoble especially coming from a party which did not even avail itself of the opportunity to observe the production of material by its own agent. All the material together with the transcripts of the AAA depositions is of course available to the Court.

While we argue the Newsletter, without the need for any arithmetic computation, may have influenced all votes cast for O'Callaghan and his slate - which is enough to overturn the election. - it may have had even greater impact on those who voted before receiving the court ordered Sheldon material. In either case the Newsletter was campaign material and its distribution may have had an impact on the outcome of the election.

Judge Croake's Opinion

On October 18, 1972 Judge Croake held, inter alia, that the Newsletter was campaign literature distributed in violation of Section 481.

While the Government argues that this Court independently should come to the same conclusion on the undisputed facts, we also submit that the IOMM&P is bound by the findings in Judge Croake's case and is estopped from asserting otherwise herein. Defendant was a party before Judge Croake represented by the same counsel as here and the identical issues whether the Newsletter was campaign literature distributed at the union's expense - were litigated in the same legal context.

Defendant now tries to undo the impact of Judge Croake's decision by arguing the case 1) only involved a prayer for preliminary relief, 2) no evidentiary hearing was held, and 3) the decision was defective in that the Judge was obliged to order a trial on the merits consolidated with a hearing on the preliminary injunction pursuant to Rule

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65(a)(2), Fed. R. Civ. P.* There is no merit to defendant's arguments.

The case before Judge Croake did not involve only a prayer for preliminary relief, as defendant claims on page 5 of his Memorandum. Final affirmative relief in the form of an order directing the IOMM&P to provide equal distribution of plaintiffs' literature was also sought. See Judge Croake's opinion at pages 326 and 328. In fact what was granted was this final relief; the requested preliminary injunction seeking a delay in the mailing of the election ballots was successfully opposed by the IOMM&P. Judge Croake, at page 329 of his opinion, found the plaintiffs not to have suffered irreparable injury in light of the post-election remedy then still available to set aside the election through the Department of Labor. By granting the final relief sought the Judge disposed of the case; there was nothing left to hear or determine. Indeed as relating to the Newsletter the case was over; the decision was final; the relief was not interlocutory.

In reaching his final decision, Judge Croake had before him all the factual material that was necessary. To determine whether the IOMM&P should have been ordered to

*Defendant's Memorandum on Behalf of Union, pp.5-6; and Epstein Affidavit, pp. 1-10, annexed to Defendant's Notice of Motion and Notice of Cross Motion.

distribute plaintiff's material, there was no evidence that was not already presented that conceivably would have been relevant. Defendant's claim that it was denied an evidentiary hearing is a factual sham. In fact defendant has presented no more in the way of material facts on the present motion than it did to Judge Croake years ago. We annex hereto, as Exhibits B and C in the Appendix, the affidavit of IOMM&P President O'Callaghan and the IOMM&P Memorandum of Law both submitted to Judge Croake. In his affidavit O'Callaghan argued the Newsletter was not campaign literature, that it only dealt with affiliation. He then described the context in which the document was mailed and concluded that this document was not campaign literature.

With this sworn affidavit (which is not materially different from the affidavits on this motion) and the Newsletter before him, Judge Croake needed no more to reach his final decision. As O'Callaghan himself said "The document speaks for itself." page 3 of the affidavit. And indeed it did.

Judge Croake determined the Newsletter, "containing electioneering for the incumbent candidate, ad-hominem attacks upon an opposition candidate, coupled with the timing of the distribution, constitute [sic] campaign literature for defendant O'Callaghan distributed at the expense of the defendant labor organization." at 327-328. He needed only to look at the Newsletter and to weigh it in the context of

the affiliation issue as set forth by O'Callaghan himself. Having made his decision that the document was campaign literature, he ordered appropriate relief and the case was over.

On October 29, 1971 the IOMM&P moved to reargue the case. That motion was made with respect to another issue in the case only, however, i.e. the Judge's finding the union had failed to make available to plaintiffs certified mailing lists of Local 88 as otherwise required. In its Memorandum in support of its motion to re-argue, which we annex as Exhibit D to the appendix herein, the IOMM&P claimed it had had no opportunity to present evidence and that no hearing had been held. The claim was made only with respect to the Local 88 mailing list (which will be discussed infra in Point V). There was no such concern with respect to the Newsletter. By endorsement November 15, 1971 Judge Croake actually granted the motion to re-argue but adhered to his earlier decision. See Exhibit II, Government's Rule 9(g) Statement.

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On November 4, 1971 Judge Croake signed an order inter alia, granting plaintiffs the right to have the union distribute literature submitted by plaintiffs. In the preamble of that order the Court notes that it has "filed a Memorandum setting forth its findings of fact and conclusions of law . ." (emphasis added). See Exhibit DD, Government's Rule 9(g) Statement. Indeed the case had been concluded.

On December 3, 1971 the IOMM&P filed a notice appealing from the November 4, 1971 Order; on December 8, 1971 it filed a notice appealing from the November 15, 1971 Endorsement. See Exhibits JJ and KK, Government's Rule 9(g) Statement. No further action was taken and on July 13, 1972 well after the election was over, the Clerk of the Court of Appeals entered a stipulation voluntarily dismissing the above mentioned appeals. See Exhibit LL, Government's Rule 9(g) Statement. Said action further evidences the finality of Judge Croake's opinion, certainly in the minds of the parties.

Nothwithstanding the finality of Judge Croake's decision, the finding and conclusions contained therein, that the Newsletter was campaign literature distributed as union expense in violation of Section 481, are absolute. There was no temporizing by the Judge. He did not say that it "appears" these were the facts or that he "temporarily" concluded. His decisions were final.

One final remark about defendant's suggestion that Judge Croake was obliged to order a trial on the merits pursuant to Rule 65(a)(2) is in order.

The provisions of Rule 65(a)(2) clearly do not obviate the fact that a Court need not hold a trial if there are no material facts in dispute and those facts are sufficient for the Court to render a decision. Rule 65(a)(2) permits a Court to consolidate "the trial of the action on the merits" ... "with the hearing of the application" for a preliminary injunction. This however, is clearly in the Court's discretion for the Rule reads that "the Court <u>may</u> order " the trial so consolidated. There certainly is no obligation to do so. Furthermore in this case there was no need for a hearing on the preliminary injunction inasmuch as the preliminary injunction, at defendant's insistance was denied; and, as has been shown, there was no need to take further evidence at a subsequent trial.

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In all respects Judge Croake's decision was final and is now binding on the IOMM&P in the instant action. Under the criteria set down in Zdanok v. Glidden Co., 327 F.2d 944, 954-56 (2nd Cir.) cert. denied, 377 U.S. 934 (1964), the union had been given a full and fair opportunity to be heard. The issues determined before Judge Croake need not be relitigated here.*

* We wish to direct the Court's attention to a comparable situation in connection with two cases in the District Court of the District of Columbia. In Yablonski v. United Mine Workers of America, 305 F. Supp. 868, 871 and 874, (D.C.D.C. 1969) The Court found the union used its Journal as a campaign instrument and granted the private plaintiff certain injunctive relief. Then in Hodgson v. United Mine Workers of America, 344 F. Supp. 17, 23 (D.C.D.C. 1972) another Judge in the same court found "[b]oth on the grounds of comity and the evidence adduced at trial" the Journal was used as a campaign tool. Here the material facts are established and not in dispute and no trial would be necessary even if Judge Croake had not come to the conclusion he did.

The Eleven Pledges Document

In POINT II, pp. 66-72, of the Government's initial Memorandum, we have explained why the Eleven Pledges (Exhibit FF, Government's Rule 9(g) Statement) constitutes campaign literature distributed in violation of section 481(g) and (c). We respectfully refer the Court thereto.

Defendant in two pages of the Schwartz Affidavit, pp. 16-17, attempts to dispute this conclusion, suggesting this was just an "ordinary union document." Further, defendant tries to slight the Government's position by suggesting we would have contested any document advising the membership that the affiliation referendum had passed. No further support for its argument is presented in Defendant's Memorandum.

To reiterate, not every document which reported on affiliation would have been campaign literature. But this one, the Eleven Pledges, because of its particular contents and the context in which it was used, certainly was.

From the 60th Convention on, O'Callaghan linked himself to the affiliation issue. He could not have made this clearer, as evidenced by, among other things, his own statement printed under his name on every single election ballot, to wit: "I ask...that you support all incumbent officers. They are the Masters, Mates and Pilots Team. I request that the membership vote in favor of affiliation with ILA."

Can it be said that a member who had not yet voted, absolutely would not have been influenced by the Eleven Pledges, a document which not only "advised that... affiliation... had passed" but also restated in the form of the joint pledges the purported benefits this O'Callaghan sponsored plan would bring and which on the backside admonished the members that the deadline for voting for officers was fast approaching?*

The violations of Section 481(g) and (c) caused by the distribution of the Eleven Pledges are alone sufficient to cause the 1971 election to be overturned.

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*The Eleven Pledges was mailed November 26, 1971 in the middle of the election period. Enough members voted after receipt of this document who may have been so influenced such that the outcome of every race may have been affected. The union cannot prove, with tangible evidence, otherwise.

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POINT IV

THE LIMITATIONS ON WHO COULD NOMINATE, BE A CANDIDATE FOR, HOLD THE OFFICE OF, VOTE FOR AND OTHERWISE SUPPORT OFFSHORE DIVISION VICE-PRESIDENTS (ATLANTIC) AND (GULF) REQUIRE A NEW SUPERVISED ELECTION FOR THOSE POSITIONS NOTWITHSTANDING AN INTERVENING ELECTION

The illegal scheme used in 1971 to select the Offshore Division Vice Presidents (Atlantic) and (Gulf) is described fully in POINT III of the Government's initial Memorandum. Essentially, the persons elected to the positions of Port Agent of the Port of New York and Port Agent of the Port of Galveston automatically became Vice President (Atlantic) and Vice President (Gulf) respectively. And because only the members of the Port of New York and those in the Galveston area (Galveston-Houston-Port Arthur) were entitled to participate in the selection process, it absolutely denied section 481(e) rights to other Atlantic and Gulf port members, i.e. merely because their memberships were in Providence, Boston, Baltimore, Philadelphia, Norfolk, Charleston, Savannah, Mobile, Tampa, Jacksonville, Hollywood and New Orleans.

The Vice Presidents of the Offshore Division hold important positions in the IOMM&P, as we note on pages

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76 and 77 of our initial Memorandum. To have disenfranchised entirely those in the outcast ports from the selection process is sufficient basis to cause a supervised election for those positions* and a declaration that enabling provisions such as these are illegal.

The defendant union tries to challenge the Government's position in a number of ways. The arguments, however, have no merit.

The IOMM&P first argues this patently unfair system lasted only for the 1971 election and that the scheme has now changed. The new plan allows all members of the Offshore Division to vote for all Offshore Division positions. See Schwartz Affidavit, p. 18. This would mean all outcast port members now may vote for the Port Agents of every port, including New York, Galveston, their own, and all others. Accordingly the union argues the Government's claim is moot. This argument should be discounted.

In Wirtz v. Hotel, Motel & Club Employees Union, Local 6, 391 U.S. 492, n. 9 at 500501, (1968) the Supreme Court specifically found that liberalizing an unreasonable by-law provision did not moot the Secretary's case with respect to that unreasonable provision in view of the Glass Bottle Blowers case. See also Point II, supra. There is of course logic to that finding and it should control in the

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* Those positions resulting in Vice Presidencies.

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instant case.

For three years two individuals have held important positions with considerable powers by virtue of this illegal scheme. Members of the outcast ports had been denied the opportunity to participate in union affairs as Offshore Division Vice-Presidents and may have had their future political opportunities within the union damaged accordingly. How many other consequences may have flowed from this illegal scheme can only be left to surmise - which defendant cannot discount with tangible evidence. While the scheme may have changed, an incalculable impact may have taken its toll. Even if the Court were to find the illegal scheme temporarily corrected, a new supervised election, including, of course, the respective Port Agent positions which automatically result in Vice-Presidencies, should be ordered and such provisions permitting the illegal scheme declared violative of section 481(e). Without such declaration there is no assurance that this scheme or a similar one won't be reincarnated. Without such a declaration it would mean unions in the name of perpetual transition could violate the provisions of the LMRDA with impunity.* How easy it

* As shown in Point II, supra, subsequent intervening elections do not moot the Secretary's case. The Ninth Circuit in Hodgson v. Local 400, Bakery and Confectionery W.I.U., 491 F.2d. 1348, 1352 (9th Cir. 1974) stated: "Moreover a defiant union could avoid ever submitting to a supervised election by repeatedly holding unsupervised 'remedial' elections after internal remedies were exhausted on each previous election but before an action was filed." The logic herein is the same. Merely change the illegal provision to avoid a supervised election.

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would be for any organization in power - whether it be the improperly elected officers or an insurgent group elected in a subsequent election held prior to a supervised re-run - to modify an illegal provision just to avoid its legal consequences, a re-run.

Defendant next claims that the separate positions of Offshore Division Vice President have been eliminated. See Schwartz Affidavit, pp. 18-19 and 21. The impression the defendant gives is that "three additional officials [had] been elected as Vice Presidents" during the 1971 election. Schwartz Affidavit, p. 19 and see p. 21. Here, even though irrelevent, the defendant misleads the Court.

In fact no "additional" officials have been elected Vice President. The three Port Agents who became the three Vice Presidents in 1971 again by virtue of their Port Agent positions were designated to become the three Vice Presidents in subsequent elections. See Government's Rule 9(g) Statement ¶¶ 114-120 (admitted by defendant). The only change has been in the manner by which members are permitted to elect these Port Agents, and that, as we have submitted, should not moot this point of the case.

Defendant next suggests (Schwartz Affidavit, p. 20) that this issue is moot in the following way: it claims that the possible argument put forward against allowing a subsequent election to moot a case - i.e. that incumbents

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should be kept from gaining advantages in succeeding elections - would be without merit because the Government in this situation is challenging an officer who will advance to his position without there actually being a succeeding election. It claims the only positions the Vice Presidents were elected to were the respective Port Agent positions and those elections, discounting the other violations in this lawsuit, were fairly conducted. They are not "elected" to the Vice-President positions.

Defendant's logic is contorted. In the first instance, to keep incumbents from gaining advantage in succeeding elections is not the only reason subsequent elections should not moot cases such as this. POINT II, supra, discusses mootness more fully. Secondly, and quite obviously, it is precisely that the Vice Presidents (Atlantic) and (Gulf) were not properly "elected" positions in that only the privileged class could indirectly participate in their selection, that is being challenged. The alternative, of course, is just a semantic one. It is just as easy to challenge the Port Agent elections for New York and Galveston by arguing they had been elected to positions with Vice Presidential responsibilities and powers over many who had no choice in their selection- a violation of 481(e) as well and hardly a scheme derived from American democratic principles.

A number of other points are raised by Defendant in connection with this issue. They deserve only brief comment.

On page 20 of the Schwartz Affidavit defendant actually claims the scheme to allow the Port Agents of New York and Galveston to ascend to the Vice Presidential positions "was sound in concept." The union justifies this position on the fact that the Port of New York was the "largest" Atlantic Port and the Port of Galveston was the "largest" Gulf Port. Accordingly their Port Agents should be "given the second title."

This position probably sums up defendant's sense of democratic proportion, i.e. to the "largest" go the spoils...and the right to control the weak and the small!

On pages 21-22 of the Schwartz Affidavit defendant tries to justify the illegal selection of Vice President in 1971 by claiming ". . . the activities of the Port Agent during and under the transitional period [1971 election]...and under the structure prior to 1970, contained the same theoretical elements of disenfranchisement, but were never complained about..." at 21. The union then describes how members belonging to one Port could seek assistance from a Port Agent of another Port whom he did not have the opportunity to vote for.

Again defendant misses the mark. In years prior to 1971 there were no Vice Presidents of the Offshore Division who by charter were given broad responsibilities and authorities with respect to all the members of the Division. Indeed there was no Offshore Division then. While Port Agents in different Ports may very well have helped members from different Ports and perhaps continued to do so through the transitional period, that doesn't eliminate the anti-democratic method of selecting the Vice-Presidents (Atlantic) and (Gulf) who were, in fact, complained about.

The defendant last argues that in fact the two O'Callaghan supported candidates who were elected Vice President (Atlantic) and (Gulf) were defeated in the 1974 election, suggesting that the incumbents advantage was not displayed causing this issue to be moot. As we have already noted, and discussed further in POINT II, supra, the fear of the incumbents advantage is not the only reason to conduct a supervised re-run. There are a host of imponderable consequences that may have resulted from the improper election of union officals. The holding of office by such a person even if such person loses in a subsequent race may have caused, for example, others not to run, may have caused votes to be siphoned off from other promising

candidates, and so forth. As the Supreme Court notes in Wirtz v. Local 153, Glass Bottle Blowers Ass'n, 389 U.S. 463 (1968) it is in the "public interest" that a supervised re-run be conducted notwithstanding a sub sequent intervening election.

POINT V

BY VIOLATING THE PROVISIONS OF ITS OWN CONSTITUTION AND/OR BY-LAWS THE IOMM&P VIOLATED SECTION 481(e) TWICE

A. THE DELAY IN MAILING THE ELECTION BALLOTS WAS A VIOLATION OF SECTION 481(e) REQUIRING THAT A SUPERVISED ELECTION BE ORDERED

In POINT IV of our initial Memorandum, pages 86-91, we have described how the IOMM&P failed to mail its 1971 election ballots "not later than the thirtieth day following the close of the nominating period..." as required by the IOMM&P Constitution and the Offshore Division By-Laws. By violating these charters the IOMM&P violated section 481(e); and, we have argued, because of events that transpired or may have transpired not only during the period of delay but also perhaps over the whole election period which was changed as a result of the delay, said violation may have affected the outcome of the election.

The defendant union now tries to argue (Schwartz Affidavit, pp. 23-27) that because union personnel were otherwise busy and it was somewhat difficult to prepare the election ballots, the IOMM&P was entitled to disregard its own Constitutional mandate that "ballots shall be mailed out not later than the thirtieth day..." (Art. V, Sec. 8(d)). This argument cannot stand.

The failure to timely mail those ballots cannot be excused by an employee's difficulties, whether arising from overwork, laziness or incompetence. The members of the IOMM&P were entitled to rely on their officers to adhere strictly to their Constitution. In this union of approximately 10,000 sea going members about 5700 voted in 1971. Whether those who in fact did vote would have voted without the delay of the ballots is uncertain. That they may have voted if they did not vote or voted differently if they did cannot be questioned.

The Government has noted on pages 88-90 of its initial Memorandum that the incumbents also caused the union to circulate its magazine "Master Mate and Pilot" during the period of delay. While the Government does not object to the publication of a union magazine, we do find this one because of its content, context and timing of its distribution objectionable. The many articles and

items contained in it favorable to the incumbents, and again pressing the affiliation issue, certainly may have had some influence. While Judge Croake may have concluded this document was not per se campaign literature, we submit that the delay allowed this document time enough to have been circulated such that it may have had an impact on the election's outcome.*

Whatever problems union employees may have had with the preparation of the ballots should have been considered before they developed. They cannot be raised at this time for the hard cold fact is that the union management violated the union's charters and this is sufficient to cause a violation of 29 U.S.C. §481(e). Indeed it may have been "remarkable that the ballots were mailed out as quickly as they were on November 21, 1971 [sic-should be September 21, 1971]" (Schwartz Affidavit, p. 25), but that is not good enough to overcome the conclusive force of law. The clear requirements of a union's constitution must be adhered to. If the rule were otherwise union incumbents could violate constitutional requirements with impunity claiming hard work was the cause of such

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* We neglected to point out in our initial Memorandum that there appears on the back cover in large block letters the word VOTE.

violation.* Any factual information justifying why the union disregareded the Constitutional deadline, is irrelevant and should be ignored. It is enough to know the ballots were late and that such delay may have affected the outcome of the election.

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* The defendant suggests that the Constitutional mandate in this case may not be clear inasmuch as there is a ten day period after the close of the nominations during which nominees must accept their nominations and submit, if so desired, statements to appear on the ballots. This could mean, it argues that there is only 20 days left to prepare the ballots or in the alternative 30 days to do so from the end of this 10 day period. See Schwartz Affidavit, p. 24 (footnote) and p. 25. Any argument that by implication of the IOMM&P Constitition the 10 days should be added to the time by which ballots should be mailed is not persuasive and in any event is irrelevant. Art. V, Sec. 5 of the Constitution wherein the 10 day provision is found specifically notes the 10 days for its purposes run from "after the close of the nominations" (for submitting statements) (p. 16) and "after the close of the nominating period" (for accepting nominations) (p. 17). This section is worded to coincide with Art. V, Sec. 8(d) which states "immediately following the tenth day after the close of the nominating period" ballots shall be prepared and mailed out. It then continues "All ballots shall be mailed not later than the thirtieth day following the close of the nominating period at which nominations have been made." In any event an addition of 10 days would only mean the ballots should have been mailed by September 6, 1971. Since they were mailed September 21, 1971, they were still too late no matter how the calculation is done.

B. FAILURE TO PROVIDE LOCAL 88 MEMBERSHIP LIST MUST CAUSE THE 1971 ELECTION TO BE VOIDED

In POINT IV of our initial Memorandum, pp. 91-97, we explained that the IOMM&P's refusal to make available the membership list of Local 88 (Port of New York), as required by the Offshore Division By-Laws (Art. XIX, Sec. 2(b)) and the By-Laws of former Local 88 (Art. V, Se.. 5), caused the union to violate Sections 481(c) and (e), thereby mandating a new election be held subject to the Secretary's supervision. The relevant Local 88 By-Laws Provision (Art. V, Sec. 5) provides "A certified list of all members of Local 88 shall be made available at cost to all candidates, provided, however, that any postage charges shall not be billed to this Organization."

While the union now argues that the membership list was always "available" to Local 88 candidates, what it actually provided was far less than what was required by the above provision even if certified copies of the list did not have to be physically provided.

In this case the IOMM&P claims to have made the

Local 88 list available at AAA headquarters in New York (See Defendant's Memorandum, p. 10; Schwartz Affidavit, p. 28; and Epstein Affidavit, p. 11). But availability there was actually limited to "viewing" the appropriate lists; copies could not be made. (See O'Callaghan Deposition pp. 254-255; Lowen Deposition p. 200.) This same argument was before Judge Croake and, as will be shown, he found the IOMM&P practice violative of the LMRDA and ordered appropriate relief.

In his October 18, 1971 decision Judge Croake found this failure to provide Local 88 mailing lists to "display a violation of the spirit of the LMRDA as well as the letter of the law." Sheldon v. O'Callaghan, 335 F. Supp. at 329. He then said this failure violated Sections 481(c) and (e). On November 4, 1971 Judge Croake thereupon ordered the union to "make available . . . certified mailing lists of all members of the said former Local 88, at cost." (emphasis added). See Exh. DD, Government's Rule 9(g) Statement.

Plaintiff's complaint in the action before Judge Croake, a copy of which we annex in the Appendix hereto as Exhibit E, put the Local 88 membership list in issue (see ¶¶ 9 and 10). The complaint was filed September 16, 1971. The IOMM&P answered on October 6, 1971 after an argument

had been heard on the motion to, inter alia, enjoin the union from mailing the election ballots. A copy of the union's answer is annexed in the Appendix hereto as Exhibit F.

It is apparent, and one must so assume, that Judge Croake felt the material facts to decide the issues were before him and thereupon determined defendant union violated the law. The underlying elements - namely the existence of the various by-law provisions and the denial of membership lists as requested by candidates in Local 88 - could not be disputed, and indeed they are not seriously disputed in the instant case (See Defendant's responses to ¶¶ 132-136 of the Government's Rule 9(g) Statement). Even if they were in dispute, however, before Judge Croake rendered his October 18, 1971 decision, they were sufficiently presented by the union itself in its motion to reargue. There the defendant union claimed, in its Memorandum in support of its motion to reargue, that it had had no opportunity to present evidence on this issue, no hearing was held, and that an arbitrator had once in 1967 decided the bylaws did not require physical delivery of a mailing list. A letter sent to Judge Croake on October 28, 1971 also claimed candidates were never denied access to the mailing list. Copies of the union Memorandum in Support of its Motion to Reargue and the

October 28, 1971 letter to Judge Croake are annexed in the appendix hereto as Exhibits D and G respectively.*

By endorsement November 15, 1971 Judge Croake granted the motion to reargue but stated: "Upon a review of all the circumstances, including the many letters with enclosures submitted by the parties, the decision of this court, dated October 18, 1971, is adhered to." See Exh. II, Government's Rule 9(g) Statement.

Clearly, how ever the union was making the lists "available", Judge Croake found said "availability" insufficient to comply with the mandate of Local 88's By-Laws - based on facts the union itself put forward in its motion to reargue. While he may not have "ever ordered that plaintiff obtain 'physical possession of mailing lists'", he did "adhere" to his previous decision including the finding that the IOMM&P "violated the spirit of the LMRDA as well as the letter of that law" and, of course, the order emanating from that decision that certified mailing lists be made available at cost.

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* We annex also in the Appendix hereto as Exhibit H a copy of the Memorandum submitted by counsel for plaintiffs in the case before Judge Croake in Opposition to the Motion to Reargue. That too had been before the Judge before he rendered his Endorsement.

Here, the same facts are before this Court and again the defendant makes the same arguments it had made in the motion to reargue, i.e. there was no evidentiary hearing before Judge Croake (Schwartz Affidavit, p. 27; Epstein Affidavit, p. 9); that an arbitrator once supposedly ruled the lists were not physically available to Local 88 candidates (Schwartz Affidavit, p. 29); and the lists were always "available" to Local 88 candidates (Schwartz Affidavit, p. 28; Epstein Affidavit, p. 11; and Defendant's Memorandum, p. 10). These redundant arguments should be disregarded as immaterial.

The findings of Judge Croake are herein conclusive. Even if they were not, we submit that this Court should find similarly that the IOMM&P violated the LMRDA by not making a certified list of Local 88 members available at cost.

Certainly as used in the Local 88 By-Laws "available at cost" means more than just available. The plain meaning of the words can only mean more than allowing candidates to "view" the list. If it doesn't mean reproducing the list it at least means making it available for copying. "At cost" contemplates some additional effort than just making the list available for viewing.

The IOMM&P did not make the lists sufficiently available. Judge Croake determined this to be violative of

the Act and that should be the conclusion herein.* As we have shown on pages 94-97 of our initial Memorandum these violations (of Sections 481(c) and (e)) may have affected the outcome of the election; defendant cannot prove they did not. Accordingly, the 1971 election must be set aside.

* We note that defendant union withdrew its appeal of Judge Croake's finding thereby sealing his decision (Exh. LL, Government's Rule 9(g) Statement). The defendant was aware of the potential collateral impact of the Judge's decision inasmuch as it had directed the Judge to the law allowing subsequent Department of Labor action to set aside improperly conducted elections (see Defendant's Memorandum in Opposition to Preliminary Injunction submitted to Judge Croake, pp. 7 and 8, Exhibit C to Appendix) and which Judge Croake specifically cited as the basis for denying the requested preliminary injunction (Sheldon v. O'Callaghan, 335 F. Supp. at 328-329).

POINT VI

JURISDICTIONAL PREREQUISITES
HAVE BEEN MET IN ALL RESPECTS

In Point V of our initial Memorandum, pp. 98-102, we explained that the members who complained to the Secretary, thereby triggering this action, had properly exhausted the requirements of Section 482(a).

This point requires brief additional comment inasmuch as defendant now attempts - although not vigorously - to deny its accurracy.

Section 482(a) requires a complaining union member to file his complaint with the Secretary within one calendar month of exhausting his internal union remedies or within one calendar month after invoking the available remedies without obtaining a final decision within three calendar months after their invocation.

In this case the Secretary claims 16 complaining members, through their attorney, Burton Hall, timely filed their complaints with the Secretary within one calendar month of exhausting their final union remedies. The union disingenuously suggests the complaints to the Secretary were late.

The detailed path of proper exhaustion is more fully set out in our initial Memorandum and the Court is respectfully referred thereto. The crucial dates though are as follows.* On January 19, 1972, Burton Hall wrote to the General Executive Board of the International, the final appellate body in the union. The General Executive Board met on January 25 and 26, 1972 to consider these appeals. It was not until February 29, 1972, by letter postmarked that day, that the union advised the complaining members through Burton Hall that their appeals had been denied on January 26, 1972, and this has been admitted by the union.** The members properly and timely filed their complaints with the Secretary on March 29, 1972, within one calendar month of exhausting their intra-union remedies. (Burton Hall actually received the February 29, 1972 letter on March 2, 1972).

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* See ¶¶ 70-76, Government's Rule 9(g) Statement. The union has admitted all the material facts.

** The defendant union has admitted that this letter (a true copy of which is annexed as Exhibit Y to the Government's Rule 9(g) Statement) was dated February 29, 1972 and that it was the letter wherein "complainants were advised the General Executive Board had denied their appeals." Admission #26 -see ¶ 75, Government's Rule 9(g) Statement which has not been denied by defendant in its response to our 9(g) Statement.

The union now tries to argue the complaints to the Secretary should have been filed by February 26, 1972 (Schwartz Affidavit, p. 30). To justify its contention, it essentially rearticulates its affirmative defense as succinctly set forth in its Answer # 35 to the Plaintiff's Interrogatories, to wit: "The complainants knew that the General Executive Board was meeting on January 25 and 26, to take up the appeal. The denial of the appeal was made on January 26, 1972." And it now suggests the Secretary has some burden to allege the complainants did not know of such denial at the time it was made on January 26, 1972 (Schwartz Affidavit, p. 30).

Never has the union in fact suggested the complainants had been notified or been aware before receiving the February 29, 1972 letter, that their appeals had been denied. Indeed it still does not claim that to be the case.

To oppose a motion for summary judgment the defendant must submit material facts contrary to those submitted by plaintiff. See Point I, supra. Not only did we set forth the facts relevant to exhaustion in our Rule 9(g) Statement, we specifically stated in our initial Memorandum (p. 101) that the defendant's affirmative defense omitted any allegation that the complainants (i.e. Burton Hall, their attorney) were in fact notified before February 29, 1972 that there was a denial of their appeals. At the very least the defendant union was obliged in its responsive

papers to allege facts supporting a conclusion that complainants were on actual notice before February 29, 1972 that their appeals were denied. This they failed to do, as a reading of their carefully drawn responsive papers indicate.* There is not one single allegation that the complainants in any way knew their appeal had been denied; nor, more importantly, is there any allegation, let alone a sworn statement on personal knowledge, that the union in any way notified any of the complainants of the denial prior to sending out the February 29, 1972 letter.

In Wirtz v. Local No. 125, Laborers' International Union, 389 U.S. 477, 484, the Supreme Court stated that "unions [are] expected to provide responsible and responsive procedures for investigating and redressing members' election grievances." (Emphasis supplied.) This would certainly include a responsible and responsive procedure for alerting complainants that their appeal had been denied.

The fundamental purpose of the Act - to ensure union democracy with the ultimate aid of a nonpartisan Secretary of Labor - surely is not designed to be easily frustrated by procedural gimmickry employed by union incumbents. To allow incumbents who are charged with the

* All the Schwartz Affidavit says, page 30, is that "The Secretary does not allege complainants did not know of such denial at the time it was made on January 26, 1972." That is not sufficient.

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review of complainants' appeals merely to rest on their knowledge of the appeals' denials, causing complainants' time to file with the Secretary to run, would be unseemly. And this is what the defendant herein argues.

At a minimum a duty must be imposed on union officials to notify complainants of the results of their appeals.* In the instant case as is clear from the record this was not done at least until February 29, 1972. Indeed notice to the complainants should be formal and official. The complainants who are not in control of the union process should not be required to fathom whether something less than formal notice - rumor for example - is sufficient to trigger the complainants' one calendar month to file with the Secretary. Nor should the responsibility of evaluating this, with the inherent risk of legal disqualification to the complainants, be left to the Secretary and then to the Courts. Formal notice should be mandated; without it compainants would be left in a quandry with respect to when they are to file with the Secretary. If no formal notice is forthcoming they know they can file once a three month period

* We do not suggest that formal notice need always be in writing, although this is perhaps the surest method. We do suggest, however, that it be formally communicated by those with authority to convey the final position of the union. It might be by letter, or perhaps on a transcript of a proceeding at which the complainant is present or it may even be orally conveyed if subsequently ratified by the one so conveying the message or by the union's appellate body. Formality no doubt can be designed in many ways, but the message must be conveyed by the union and, if disputed, the union should come forward with evidence that this was done.

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from the time they invoke the union's internal appellate process expires. To suggest the union can rest on its own knowledge would be unjust and inconsistent with the scheme of 482(a)(1) and (2). By trick or device the complainants would be too often mislead or entrapped into awaiting the lapse of three months just to find that the union then claims that the "appeals were denied" and the time from that denial to file with the Secretary had long passed. Clearly no duty can be placed on the complainants to disgorge from union officials the results of intra-union appeals.

In Shultz v. Radio Officers' U. of United Telegraph Wkrs., 344 F. Supp. 58 (S.D.N.Y. 1958), Judge Pierce was faced with a somewhat analogous situation. There the defendant union argued the complainant had not timely filed his complaint ("intention to appeal") with the union within 10 days as a union constitutional provision required.* The union argued that the complainant's December 26, 1969 appeal was untimely because the election ballots had been counted December 1, 1969. The complainant argued he had not been made fully aware of the final results until December 26, 1969. While the Court did not find the 10 day provisions

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* A subordinate unit's constitution required "notice of intention to appeal" be filed "within ten days after the action complained of is taken." p. 66.

cited by the union as even applicable, it went on to find the complainant's complaint timely filed with the union nevertheless. Judge Pierce specifically found the defendant union (ROU) "did not communicate this information [election results] to him [complainant] in formal notice at any time prior to December 26, 1969, when he filed his notice of intention to appeal." (Emphasis supplied.) The complainant had apparently learned of the election's outcome during mid-December 1969 but had no assurance of accuracy of the tally results.

Commenting on that 10 day appeal provision, Judge Pierce went on to say:

> Whatever § 12(f) means, under Glynn's [the winner] interpretation, it cannot mean that an individual must file a notice of intention to appeal before he has sufficient information to determine the likely efficacy of the protest. The responsibility for Smith's [the complainant] lack of knowledge of the election results rests with the ROU. Thus the defendant failed to trigger the running of the 10 day period; it cannot now be permitted, under the direction of the incumbents alleged to have violated § 481, to exalt the technical ten day requirement in order to preclude inquiry into whether the "free and democratic" elections sought to be guaranteed by § 481 were in fact conducted. (citations omitted) at p. 67.*

In Wirtz v. Local U. 125, Laborer's International Union, supra, and in Hodgson v. Local U. 6799, United Steelworkers of Amer., 403 U.S. 333 (1971) the Supreme Court has clearly ruled that complainants must give notice to the

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* It cannot go unnoted that counsel for the ROU is counsel for the defendant herein.

union of the specific election violations which are claimed. Those violations which are discernable by complainants and not presented cannot later be the subject of the Secretary's action.

The corollary must of course be true. The union, in control of the process, must give notice to the complainants of the outcome of their appeals.

To allow the union to claim that its rejection of an election complaint triggers the running of the one month period under section 482(a)(1) without providing formal notice to the complainant is to allow a system rife with potential abuse. "Such procedural perversions of the exhaustion requirements of § 402(a) [29 U.S.C. § 482(a)] will not be permitted." Hodgson v. Liquor Salesmen's U. Loc. No. 2 of State of N.Y., 444 F.2d 1344 (2d Cir. 1971).

In the instant case, formal notice was first given to the complainants by letter postmarked February 29, 1972. This is not refuted by defendant. Even assuming the complainants here were on some notice that their appeals had been denied - which is neither suggested by defendant nor conceded by us - it would not have been sufficient. Notice having been given to complainants no sooner then February 29, 1972, the complaint filed with the Secretary March 29, 1972 was timely.

POINT VII

THE SCOPE OF THE SECRETARY'S SUPERVISION OF A COURT ORDERED ELECTION IS VERY BROAD; IT ALLOWS THE SECRETARY TO DIRECT THE UNION TO ABANDON CONSTITUTIONAL PROVISIONS WHICH VIOLATE THE LMRDA, NOTWITHSTANDING THE COURT MAY HAVE DEFERRED CONSIDERATION OF THE IMPROPIETY OF SAID CONSTITUTIONAL PROVISION AS IN THE INSTANT CASE

Once it has been established that a violation of Section 481 may have affected the outcome of an election

> The court shall* declare the election, if any, to be void and direct the conduct of a new election under supervision of the Secretary and, so far as lawful and practicable, in conformity with the constitution and by-laws of the labor organization. 29 U.S.C. § 482(c).

Congress was committed to making the Secretary's intervention in union elections, once warranted, effective (Glass Bottle Blowers case at 473) and a supervised election, as we have noted in Point II, supra, is the only way to ensure that the influence of a tainted election may be eliminated. Further, if the Court orders a new supervised election, the order "shall not be stayed pending appeal." 29 U.S.C. § 482(d).

The Secretary's supervisory authority is exceptionally broad and his decisions made in connection therewith must be heeded by the union.

The Court of Appeals for the Seventh Circuit in

* The Supreme Court twice emphasized the word "shall" in the Glass Bottle Blowers case (389 U.S. at 468 and 474) and indeed such mandate is clear.

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Brennan v. Local 551, United A. A&A Imp. Wkers. of A., Inc., 486 F.2d 6 (7th Cir. 1973) recently addressed itself to the Secretary's election supervisory powers. In holding that the Secretary, and not the union, could determine the date the supervised election was to be conducted, the court stated:

> The order of June 18, 1973, [directing a supervised election] specified a remedy which necessarily involves governmental intervention and supervision of a critical aspect of the union's activities, namely its election process. In order to achieve the purpose of the statute, the Secretary must be afforded a wide range of discretion in discharging his supervisory responsibility. The leadership of the union must respect his authority. at p. 10.

A number of characteristics of the Secretary's supervisory authority emerge from that case:

(1) the determinations and directives of the Secretary must be reasonable and practicable;

(2) the Secretary has a wide range of discretion in his supervision of the court ordered election;

(3) the union leadership must respect the Secretary's authority and must comply with all reasonable directives of the Secretary;

(4) the Secretary, in his supervision of the election, should consult with interested parties, including the incumbent union leadership; such consultation is not in any sense comparable to a negotiation between equal parties; the supervisory decisions are the Secretary's decisions;

(5) the Secretary's supervisory determinations are subject to revision at any time if the Secretary has reasonable grounds for concluding that different determinations are necessary to insure a fair and representative election; in making such determinations, the Secretary should consider various factors, e.g., expenses, possible impact on impending negotiations, or any other matters that the Secretary, in his impartial expertise, deems relevant;

the weight to be accorded such factors is, in the first instance, for the Secretary to decide;

(6) if the union, the incumbent union leadership, or any other interested party objects to any action taken by the Secretary in his supervisory capacity, that party assumes a heavy burden of persuasion and proof; judicial intervention in advance of the supervised election is appropriate only if the objecting party proves procedural irregularity (such as a complete lack of any opportunity to object or to explain), evidence of bias, or that the Secretary's action is manifestly arbitrary;

(7) the Secretary's supervisory actions must be judged on the basis of the facts available to him when his decisions are made.

Adhering to the guidelines set forth in the Local 551 case, supra, the Court in Brennan v. Sindicato Empleados de Equipa Pesado, Etc, 370 F. Supp. 872 (D.P.R. 1974) went further by saying

> A labor organization cannot refuse to comply with the election supervisor's directives without bringing upon itself the Secretary's refusal to continue conducting an election, or, as in this case, refusing to certify the results of such election. at p. 880.

Included within the Secretary's supervisory authority is the power to determine whether provisions of a union's constitution and/or bylaws then existing are lawful within Section 481 and if not lawful to require the union to discard them in favor of proper substitutes, if appropriate. Section 482(c) of Title 29, specifically states that the new election under the Secretary's supervision is to be conducted "so far as lawful and practicable, in conformity with the

constitution and bylaws of the labor organization." (emphasis added.) Once a supervised election is triggered the intention is to ensure as best as possible the new election is conducted fairly and lawfully in all respects, for no other meaning would allow the Secretary's "intervention, once warranted," to be "effective."

The logic of the Sixth Circuit in Hodgson v. Local 1299, United Steelworkers of America, 453 F.2d 565 (6th Cir. 1971) is relevant. There in reversing a District Court's decision to restrict the Secretary's supervision to the balloting aspect of a new election, the Circuit Court found it advisable "to allow the Secretary to supervise the entire election if he deems it necessary." at 577. The Circuit Court said: "Not only would this afford maximum protection to the union members but it would also avoid the multiplicity of litigation that could result from incumbent officers violating a different provision of Section 401 [481 of Title 29, U.S.C.] in each new election." at 577.

Accordingly, the re-run election once ordered is subject to the Secretary's supervision and directives in all respects.

The union in the Schwartz Affidavit, pp. 54-55, suggests this may not be so. Recognizing that a supervised election must be conducted "so far as lawful and practicable, in conformity with the Constitution and By-Laws of the labor organization," the union then posits that any other violation

originally alleged by the Secretary as part of his complaint - including the existence of illegal provisions of the union's Constitution and/or By-Laws - must be determined by the Court on this motion for summary judgment or be precluded from the Secretary's subsequent supervision.

The union's misunderstanding of the law is apparent. All that is required for a supervised re-run election is the existence of one Section 481 violation which may have affected the outcome of the election.*

Once such a violation is found and an election ordered, that new election will be subject to the Secretary's supervision. All this means is that under supervision any procedure the union intends to employ to conduct the re-run election will be subject to the Secretary's direction. If the procedure is improper or unlawful, the Secretary can establish reasonable procedures and/or require that unlawful ones be brought into conformity with the law. This does not mean the Court will still be obliged to review and determine the additionally alleged violations that may have occurred during the improperly conducted election, as defendant otherwise suggests. For the large part these violations become superfluous and decisions thereupon are unnecessary.

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* In view of this point, the Court deferred consideration of the defendant's cross-motion for summary judgment with respect to other violations alleged by the Secretary as perhaps unecessary. See Your Honor's letter of March 3, 1975 to Assistant United States Attorney Dennison Young, Jr.

However, to the extent it can be anticipated these violations - especially those caused by operation of Constitutional and By-Law provisions - would be repeated during the supervised re-run election, they would not be tolerated by the Secretary. The mere fact that the Court is not called upon to determine whether a violation was committed during the earlier election, does not mean the Secretary is precluded from preventing an unlawful practice which would persist during the re-run. Indeed such may be the case in the instant action.*

In his complaint the Secretary questions the scheme embodied in the International Constitution and the Offshore Division's ByLaws whereby the three International officers - who are elected by members of all Divisions in the union - automatically become the three top officers of the Offshore Division without there being a separate election therefor among the members of the Offshore Division only. See Art. IX, Sec. 8, IOMM&P Constitution; Art. V, Sec. 1, Offshore Division By-Laws. As structured by the Offshore Division By-Laws and IOMM&P Constitution these three officers in their capacity as Executive Officer, Assistant Executive Officer and Financial Officer, have significant responsibilities and perform significant duties for the Offshore Division alone (see Offshore Division By-Laws, Art. VI

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* Until the union defies the Secretary's directives during the period of supervision, one cannot say for sure the union's illegal procedures as embodied in its Constitution and By-Laws will definitely continue. That remains to be seen.

Sec. I; Art. VI, Sec. 2; and Art. VI Sec. 3) and their selection should not be imposed on the Offshore Division membership, which may not always have collateral interests. The weighty responsibilities and duties of these officers are accentuated by the union itself (see Schwartz Affidavit, p. 42) when describing how these three International officers actually have a vote on the governing Executive Council of the Offshore Division. The fact that they have any votes at all in that Council's deicisons adds further to their influence.

The election that was conducted among the Offshore Division members specifically did not permit selection of that Division's three top officers. (See Art. V, Sec. 1, Offshore Division By-Laws-specifically precluded nominations for these officers) and any argument that the Offshore Division members participated sufficiently in the selection process through their (nominating, supporting and) voting for International officers simply has no weight. Such argument would be tantamount to suggesting it would be proper for the Governor of New York to assume the role of Mayor of New York City because the people in New York City participated in the Governor's selection. A scheme like this cannot be tolerated.

The defendant union twists and turns to justify this patently undemocratic scheme (Schwartz Affidavit, pp. 40-45).* It cannot do so successfully. By failing to permit members of the Offshore Division to directly nominate, vote for or otherwise support candidates for Offshore Division Executive Officer, Assistant Executive Officer and Financial Officer during the election that was conducted among Offshore Division members, the union committed Section 481(e) violations. That these violations were committed necessary means they "may have affected the outcome of the election". Additionally by failing to conduct an election for these officers "not less often than once every three years" the union violated 481(b) which violation does not require a finding that it may have affected the outcome of the election (see 29 U.S.C. § 482(c)).

The Secretary opted not to move for summary judgment on this issue at this time. It is, of course, reserved in the event a trial is necessary. This does not mean, however, that the scheme will cease to be illegal. The Secretary's judgment is that it is improper and that its continued application in a supervised re-run election would not be "lawful" as mandated in section 482(c). It does mean

* This is one of the violations against which the defendant cross-moved and the consideration of which the Court has deferred. It is also the subject of the subsequent action brought by the Secretary with respect to the 1974 election of officers (75 Civ. 2095 (CBM)).

though that the Court need not decide this issue at this time. Assuming a supervised re-run is ordered, it need not be in issue unless and until the union defied the Secretary's directives with respect to it and until then there is no certainty the union would not abandon these improper Constitutional and By-Law provisions or otherwise come to some arrangement satisfactory to the Secretary.

But there should be no mistake about the fact that a union, once ordered to conduct a re-run election subject to the Secretary's supervision, must abandon unlawful procedures, including those in its charters.

In Hodgson v. Local U. 6799 United Steelworkers of America, 403 U.S. 333 (1971) Justice White in his dissent* stated that with respect to a court ordered supervised election the Secretary "is under no obligation, indeed forbidden, to follow a provision of the bylaws or constitution that is unlawful." p. 343. Mr. Justice White further added, at p. 344: "[I]f the Secretary finds an invalid bylaw that purports to govern a new election that has been validly

* This aspect of Justice White's dissent was not inconsistent with the majority opinion. The majority opinion merely said the initiation of the Secretary's action must be limited to complaints which a complaining member first appealed to his union, unless the particular violation discovered by the Secretary during his investigation was not one that could be discerned by the complaining union member. The majority did not limit the scope of supervision.

Y:bj
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ordered on a claim that has been exhausted as in this case, the Secretary appears to have express grounds in the Act, independent of the complaint-exhaustion requirements, to insist that the new election be conducted in accordance with the law and to insist that a court adjudicate the matter if the union stands by its bylaw provision."

Quoting from Mr. Justice White's opinion and a subsequent majority opinion of the Supreme Court,* the Court of Appeals for the District of Columbia in Brennan v. Local Union 639, Int. Bro. of Teamsters, Inc., 494 F.2d 1092 (D.C. Cir. 1974), stated the "The [Supreme] Court has clearly distinguished between a violation as a ground to set aside an election and using a violation with respect to setting the ground rules for a new election which has been ordered." at p. 1099. It then went on to hold that the district court had not erred by directing the union in the course of the new election not to use an invalid bylaw provision, notwithstanding the fact that that violation might not even have constituted a ground to set aside the election in the first instance.

The Secretary has the power in his supervision of

*Trobovich v. United Mine Workers, 404 U.S. 527 (1972) wherein the Court strictly limited rights intervenors had to participate in the Secretary's action to set aside the contested election but in a footnote, noted the limitation was not as stringent with respect to assisting the Secretary fashion a suitable remedy once the court ordered a new supervised election.

the Court ordered election to determine whether the provisions of the union's constitution and bylaws are lawful within section 481, to require that the union abandon or modify those provisions he determines to be violative of the section 481 and, in the event the union refuses to adhere to the Secretary's directives, to seek appropriate judicial assistance or otherwise refuse to continue with the election under supervision.

CONCLUSION

The Secretary's motion for summary judgment should be granted. The IOMM&P should be ordered to conduct a new election subject to the Secretary's supervision.

Respectfully submitted,

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for Plaintiff

DENNISON YOUNG, JR.
BOBBY C. LAWTER
Assistant United States Attorneys

FRANCIS V. LA RUFFA
Regional Soliciter

RUDOLPH E. DEMEO
Attorney
United States Department of Labor

-Of Counsel-

Form 280 A-Affidavit of Service by Mail
Rev. 3/72

1983a

AFFIDAVIT OF MAILING

72 Civ 3031 CBM

State of New York)
County of New York) ss

PAULINE P. TROIA, being duly sworn,
deposes and says that she is employed in the Office of the United States Attorney for the Southern District of New York.

That on the 23rd day of May 1975 she served a copy of the within

(govt) Plaintiffs reply memorandum

by placing the same in a properly postpaid franked envelope addressed:

1) Marvin Schwartz, Esq., 243 Waverly Place, NY NY 10014

2) Ernest Allen Cohen, Esq. Jaffe, Cohen, Berman & Crystal, Esqs., 275 Seventh Ave. NY NY 10001

And deponent further says she sealed the said envelopes and placed the same in the mail chute drop for mailing in the United States Courthouse, Foley Square, Borough of Manhattan, City of New York.

Pauline P. Troia

Sworn to before me this
23rd day of May 1975

Notary Public, State of New York
No. 41-2292838 Queens County
Term Expires March 30, 1977

Appendix Accompanying Plaintiff's Reply Memorandum

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

JAMES D. HODGSON, Secretary of Labor, United States Department of Labor,

Plaintiff,

- v -

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, INTERNATIONAL MARITIME DIVISION, ILA, AFL-CIO,

Defendant.

72 Civ. 5031 (CBM)

- x

APPENDIX TO

PLAINTIFF'S REPLY MEMORANDUM

VOL #7-B

59-A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES D. HODGSON, Secretary of Labor, United States Department of Labor,	:	
Plaintiff,	:	72 Civ. 5031 (CBM)
-v-	:	
INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, INTERNATIONAL MARITIME DIVISION, ILA, AFL-CIO,	:	
Defendant.	:	

APPENDIX
TO ACCOMPANY
PLAINTIFF'S REPLY MEMORANDUM

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72-3882
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APPENDIX
EXHIBIT A

SECRETARY'S ANALYSIS OF DEFENDANT'S DENIALS SET FORTH IN ITS STATEMENT IN RESPONSE TO THE GOVERNMENT'S RULE 9(g) STATEMENT

PARAGRAPH:

[1. - no response; deemed admitted]

[2. - no response; deemed admitted]

[3. - no response; deemed admitted]

Paragraphs 4 and 6

Defendant's denials are qualified. Plaintiff's paragraph 4 states the IOMM&P is a "labor organization" pursuant to 29 U.S.C. §§ 402(i) and (j) and paragraph 6 states jurisdiction is conferred on the Court pursuant to 29 U.S.C. § 482(b). Defendant's Answer, ¶2, and the Lowen Deposition, pp. 175-179, previously admit the Court's jurisdiction. Defendant's denials in these two paragraphs merely attempt to preserve an affirmative defense that the complainants complaints to the Secretary were not timely filed. In fact the IOMM&P is a "labor organization" (even though this need not be proved further because jurisdiction is admitted and defendant admits the union is subject to section 481) and the complainants complaints were timely filed. This is fully discussed in Point VI of the Government's Reply Memorandum.

[5. - no response; deemed admitted]

[7. - no response; deemed admitted]

[8. - no response; deemed admitted]

[9. - no response; deemed admitted]

[10. - no response; deemed admitted]

[11. - no response; deemed admitted]

[12. - no response; deemed admitted]

[13. - no response; deemed admitted]

Paragraphs 14 and 18

Defendant's denials are virtual admissions. In any event they do not raise any genuine issue as to any material fact, for the facts relating to the establishment of a fully

formed Inland Division or to the composition of the Pilots Division are not material to the substantive issues of violation of 29 U.S.C. sections 481(g), 481(c), and 481(e). The "Newsletter" and the "Eleven Pledges" were mailed to each of defendant's members (Admissions #'s 28 and 31), irrespective of the member's particular division. The violation of 29 U.S.C. section 481(e) with respect to the offices of Offshore Division Vice-President (Atlantic) and Offshore Division Vice President (Gulf) involved members of only the Offshore Division. The violation of 29 U.S.C. section 481(e) with respect to the failure to mail ballots within the prescribed 30 day period involved ballots to all defendant's members, irrespective of the member's particular division. The violation of 29 U.S.C. section 481(e) with respect to the Local 88 mailing lists involved requests from candidates for office in former Offshore Division Local 88 although the outcome of all contested elections may have been affected as a result of this violation.

[15. - no response; deemed admitted]

[16. - no response; deemed admitted]

Paragraph 17

Defendant's denial of this paragraph is irrelevant for the purposes of the present motion which does not present the issue whether the members of Inland Local 47 were denied the right to vote for International officers in the 1971 election. This issue has been deferred pending the outcome of the present motion.

Paragraph 19

Defendant's denial actually admits the facts merely pointing out a typographical error.

[20. - no response; deemed admitted]

[21. - no response; deemed admitted]

[22. - no response; deemed admitted]

Paragraph 23

Defendant's qualified admission to this paragraph admits the facts stated therein

and alleges other facts which are irrelevant to the issues presented by the present motion.

Paragraph 24

Defendant's denial that Nominations for International Officers ended on July 28, 1971 is refuted by defendant's previous admission (Admission # 63). The accompanying papers, furthermore, do not support this denial. See Point V of the Plaintiff's Reply Memorandum.

[25. - no response; deemed admitted]

[26. - no response; deemed admitted]

[27. - no response; deemed admitted]

[28. - no response; deemed admitted]

Paragraph 29

Defendant has previously admitted this identical statement of fact (Answer, ¶6 and Admission, #3). Defendant's qualified denial furthermore taken with defendant's admission of paragraph 36 herein constitute an admission of the facts set forth in this paragraph.

[30. - no response; deemed admitted]

[31. - no response; deemed admitted]

[32. - no response; deemed admitted]

[33. - no response; deemed admitted]

[34. - no response; deemed admitted]

[35. - no response; deemed admitted]

[36. - no response; deemed admitted]

[37. - no response; deemed admitted]

[38. - no response; deemed admitted]

[39. - no response; deemed admitted]

[40. - no response; deemed admitted]

Paragraph 41

Defendant's denial is meaningless and in effect admits the paragraph. Defendant although it has denied certain characterizations and statements appearing on Exhibit E to the Government's Rule 9(g) Statement, has failed to set forth any specific facts which contradict Exhibit E as required by Rule 56(e), Fed. R. Civ. P.

[42. - no response; deemed admitted]

[43. - no response; deemed admitted]

[44. - no response; deemed admitted]

[45. - no response; deemed admitted]

[46. - no response; deemed admitted]

[47. - no response; deemed admitted]

[48. - no response; deemed admitted]

[49. - no response; deemed admitted]

[50. - no response; deemed admitted]

[51. - no response; deemed admitted]

Paragraph 52

Defendant's denial is irrelevant for the purposes of the present motion which does not present the issue whether the members of Inland Local 47 were denied the right to vote for International officers in the 1971 election. This issue has been deferred pending the outcome of the present motion. The fact that members of Inland Locals, except for those in Local 47, voted for International officers is, of couse, not denied.

[53. - no response; deemed admitted]

[54. - no response; deemed admitted]

[55. - no response; deemed admitted]

[56. - no response; deemed admitted]

[57. - no response; deemed admitted]

[58. - no response; deemed admitted]

[59. - no response; deemed admitted]

[60. - no response; deemed admitted]

[61. - no response; deemed admitted]

Paragraph 62

The statement made in plaintiff's paragraph 62 was previously admitted by defendant (Lowen Deposition, p. 208). The addendum defendant adds to its denial is not material to any genuine issue raised by this present motion.

Paragraph 63

Defendant actually admits the statement made in paragraph 63. The remainder of defendants "denial" is totally irrelevant.

Paragraph 64

Paragraph 64 merely stated the AAA received 5716 ballots as noted on the AAA's Certification of Results (which was annexed to the Rule 9(g) Statement as Exhibit M and which was admitted to be a true copy in paragraph 60). Defendant's denial on the ground of lack of knowledge fails to set forth specific facts which might raise the slightest question as to the truth of the factual statements contained in the Certification of Results by the AAA -- defendant's own agent. This is just one example of defendant's disingenuous denials.

Paragraphs 65, 66 and 67

These three paragraphs merely recite facts adduced from attached Exhibits. Defendant's denials on the ground of lack of knowledge fail to set forth any facts which might raise the slightest question as to the accuracy of the facts therein. Furthermore there was no denial of the fact that the defendant itself, through O'Callaghan, actually supplied the identical tally of ballots received by the American Bank and Trust, as specifically noted in paragraph 66.

[68. - no response; deemed admitted]

[69. - no response; deemed admitted]

[70. - no response; deemed admitted]

[71. - no response; deemed admitted]

[72. - no response; deemed admitted]

[73. - no response; deemed admitted]

[74. - no response; deemed admitted]

[75. - no response; deemed admitted]

Paragraph 76

This paragraph set forth facts with respect to complainants filing with the Secretary. Defendant's denial of knowledge as to when the complaint was filed is not supported by any facts which raise the slightest question as to the truth of the facts set forth. Furthermore, defendant has previously admitted that the complainants filed their complaint with the Secretary on March 29, 1972 (Answers to Interrogatories, ¶35) and at least even admits here that the "complaint was filed no earlier than March 29, 1972." The thrust of defendant's argument is that the complainants should have filed with the Secretary by February 26, 1972. (Schwartz Affidavit, p. 30.) That argument is fully discounted in Point VI of the Government's Reply Brief.

[77. - no response; deemed admitted]

[78. - no response; deemed admitted]

[79. - no response; deemed admitted]

[80. - no response; deemed admitted]

[81. - no response; deemed admitted]

[82. - no response; deemed admitted]

[83. - no response; deemed admitted]

[84. - no response; deemed admitted]

[85. - no response; deemed admitted]

[86. - no response; deemed admitted]

Paragraphs 87, 88 and 90

These paragraphs merely quote portions of Judge Croake's opinion in Sheldon v. O'Callaghan, 335 F. Supp. 325 (S.D.N.Y. 1971). They cannot be denied and in fact defendant fails to deny their factual elements merely referring the Court to its accompanying papers.

Paragraph 89

This paragraph merely recites the terms of Judge Croake's November 4, 1971 Order (Exh. DD to Rule 9(g) Statement). It cannot be denied. Defendant merely refers the Court to its accompanying papers.

[91. - no response; deemed admitted]

[92. - no response; deemed admitted]

[93. - no response; deemed admitted]

Paragraph 94

This paragraph notes the number of ballots returned to the American Bank and Trust by November 9, 1971. Defendant actually admits in its denial that the approximate number recited were so returned. That is all that is crucial for this motion. It is also noted, however, that defendant actually supplied the identical document from which the number was taken as noted in paragraph 66 above.

[95. - no response; deemed admitted]

[96. - no response; deemed admitted]

[97. - no response; deemed admitted]

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72-3882
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Paragraph 98

This paragraph merely notes that the envelops in which ballots were returned to the AAA had been presevered by the AAA and turned over to the United States Attorney pursuant to subpoena. Defendants' denial on the grounds of lack of personal knowledge is inadequate to raise any question as to the accuracy of the paragraph. Furthermore, defendant was on notice of the deposition at which the envelops were turned over to the Government, but it chose not to attend. It cannot now raise any question regarding these envelops which its own agent, the AAA, turned over. Additionally, they are available to the Court.

Paragraph 99

Defendant's denial fails to set forth specific facts which contradict the fact that Exhibit EE to the Secretary's motion is an affidavit of Compliance Officer O'Hanlon. Merely stating defendant has no knowledge of the source of the document or the statements contained therein is not sufficient. See Point I, Government's Reply Memorandum. Some of the facts are actually admitted (¶¶ 95, 96, 97). Any others are reasonably within the knowledge of defendant, if they exist, such that they should have been specifically presented. In fact this cannot be done and defendant has not done so by its denial based on a lack of knowledge.

Paragraphs 100, 101 and 102

See paragraph 99 above.

[103. - no response; deemed admitted]

Paragraphs 104 and 105

Defendant's qualified denials of paragraphs 104 and 195 actually admit the factual essence of these paragraphs.

[106. - no response; deemed admitted]

[107. - no response; deemed admitted]

[108. - no response; deemed admitted]

Paragraph 109

This paragraph merely set forth the number of ballots returned after the Eleven Pledges was mailed, as determined from the dates on the return envelops turned over by the AAA. As indicated in paragraphs 98 and 99 above, the defendant chose not to appear at the deposition of the AAA and a denial based on lack of knowledge does not set forth specific facts sufficient to contradict the facts in this paragraph. Indeed no facts could be presented to refute the facts in this paragraph.

[110. - no response; deemed admitted]

Paragraph 111

Defendant's qualified denial fails to set forth specific facts contradicting this paragraph which is taken from the Offshore Division By-Laws operative at the time of the 1971 election. The additional statement that a newly adopted amendment changed the weighted voting scheme is irrelevent. See Point IV of the Government's Reply Memorandum.

[112. - no response; deemed admitted]

[113. - no response; deemed admitted]

[114. - no response; deemed admitted]

[115. - no response; deemed admitted]

[116. - no response; deemed admitted]

[117. - no response; deemed admitted]

[118. - no response; deemed admitted]

[119. - no response; deemed admitted]

[120. - no response; deemed admitted]

Paragraph 121

Defendant has previously admitted this paragraph. See Admission #63. In this denial defendant merely refers the Court to its accompanying papers apparently referring to that portion which attempts to justify the late mailing of the election ballots. Defendant's position, however, has no merit as fully discussed in Point V of the Government's Reply Memorandum.

Paragraphs 122 and 123

Defendant fails to set forth specific facts to contradict these paragraphs, merely referring the Court to its accompanying papers. As noted in paragraph 121 above, Point V of the Government's Reply Memorandum dispels defendant's position that election ballots were timely mailed. See also paragraph 26 of the Government's Rule 9(g) Statement which is admitted.

Paragraph 124

Defendant actually admits this paragraph.

[125. - no response; deemed admitted]

[126. - no response; deemed admitted]

[127. - no response; deemed admitted]

[128. - no response; deemed admitted]

Paragraph 129

Defendant's qualified denial actually admits the material facts, namely, that the "Master, Mate and Pilot" August 1971 edition was distributed before the ballots were mailed. Defendant, furthermore, fails to set forth the date on which the subject publication was mailed to the membership, which fact should reasonably be within the knowledge of defendant.

Paragraph 130

Defendant's denial fails to deny the factual essence of Paragraph 130, namely, the Secretary's restatement of part of the opinion in Sheldon v. O'Callaghan, 335 F. Supp. 325 (S.D.N.Y. 1971) (Exhibit CC to the Secretary's Motion).

[131. - no response; deemed admitted]

[132. - no response; deemed admitted]

Paragraphs 133 through 136

Defendant fails to set forth any specific facts contradicting the facts stated, which for the most part are merely recitations of certain provisions of the Offshore Division By-Laws and Local 88 By-Laws. Defendant only attempts here and in its affidavits to "argue" the meaning of those provisions. In Point V(B) of the Government's Reply Memorandum we show that defendant's arguments have no merit and that its failure to comply with these By-Law provisions was another violation of Section 481.

Paragraph 137

By Admission #16 (Exhibit F to the Admissions, p. 34) defendant previously admitted this paragraph and it does not set forth specific facts herein to contradict them. Defendant merely "argues" candidates of Local 88 were entitled to "access" to the membership lists. This is not sufficient, as we show in Point V(B) of

the Government's Reply Memorandum, to refute the violation committed by defendant by not providing Local 88 candidates copies of the mailing list, as found by Judge Croake.

Paragraphs 138 and 139

These paragraphs restate portions of Judge Croake's opinion in Sheldon v. O'Callaghan, 335 F. Supp. 325 (S.D.N.Y., 1971). Defendant cannot deny them as such and indeed merely refers the Court to its argument in its accompanying papers.

Paragraph 140

This paragraph restates a portion of Judge Croake's November 4, 1971 order. It cannot be denied as such and indeed defendant merely refers the Court to its argument in its accompanying papers.

Paragraph 141

This paragraph notes defendant moved to reargue Judge Croake's opinion with respect to that portion ordering former Local 88 certified mailing lists be made available. Defendant sets forth no specific facts to contract this paragraph, merely referring the Court to its accompanying argument. While the Government in Point V(B) of its Reply Memorandum amply refutes defendant's argument we also have provided copies of the papers defendant submitted to Judge Croake with respect to its motion to reargue (Appendix, Exhs. D and G).

[142. - no response; deemed admitted]

Paragraph 143

This paragraph notes the ballots returned to the American Bank and Trust by November 15, 1971, the date of Judge Croake's endorsement. Defendants sets forth no specific facts to contradict this paragraph merely claiming the information is unknown to it. That is insufficient to pervent the imposition of summary judgment. It is also noted, however, that defendant actually supplied the identical document from which the number was taken, as noted in paragraph 66 above.

[144. - no response; deemed admitted]

[145. - no response; deemed admitted]

[146. - no response; deemed admitted]

Paragraph 147

See paragraphs 133-137 above.

B

1997a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FILED IN COURT
SEP 21 1971
(11)

LLOYD SHELDON, AMOS KOONCE and VICTOR SOTO,

Plaintiffs,

-against-

71 Civ. 4113

THOMAS F. O'CALLAGHAN, AS INTERNATIONAL PRESIDENT, etc., OF INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, AFL-CIO

AFFIDAVIT IN OPPOSITON TO MOTION FOR PRELIMINARY INJUNCTION

-and-

DONALD B. STRAUS, AS PRESIDENT, etc., OF AMERICAN ARBITRATION ASSOCIATION

Defendants.

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

Thomas F. O'Callaghan, being duly sworn, deposes and says:

I am International President of the International Organization of Masters, Mates and Pilots, one of the two defendants herein. I submit this affidavit in opposition to plaintiffs' application for a preliminary injunction.

Plaintiff seeks, on this preliminary injunction, mandatory relief directing the defendant, International Organization of Masters, Mates and Pilots, at its own expense, to print and cause to be mailed to members of the International Organization of Masters, Mates and Pilots campaign literature on behalf of one of the plaintiffs herein, Lloyd Sheldon, candidate for President of the International Organization of Masters, Mates and Pilots. Pending such printing and distribution, plaintiffs further seek a stay of the mailing of the election ballots, which mailing and further proceedings thereafter, are under the

inclusive supervision and control of the American Arbitration Association.

60TH CONVENTION NEWSLETTER --
RESOLUTION OF AFFILIATION

The basis of plaintiff Sheldon's application on this preliminary injunction, which, incidentally, seeks the same relief as in the complaint itself, is the plaintiff's allegation that certain materials sent to the membership of the International Organization of Masters, Mates and Pilots constitutes "campaign literature" on behalf of myself, a candidate for re-election to the post of International President, and that consequently, plaintiff Sheldon is entitled to similar "campaign literature" to be printed and distributed at the expense of the union.

I categorically deny that the materials referred to and complained of by plaintiff Sheldon are in any manner, shape or form "campaign literature", nor can the same, by any fair reading thereof, be so interpreted.

The first document complained of, which is annexed to plaintiffs' moving papers as Exhibit "A", is a document entitled "60th Convention Newsletter on the Resolution of Affiliation of the IOMM&P with the ILA".

Without encumbering this affidavit with the history and events surrounding the proposed merger of the MM&P with the ILA, (International Longshoremen's Association) that document concerns itself solely with the question of whether or not the MM&P should be affiliated with the ILA. Plaintiffs' moving papers carefully omit mention of the fact that the question of merger is currently the subject of a referendum ballot now

being conducted under the auspices of the American Arbitration Association.

The document speaks for itself. It relates to the affiliation question, and in no way does it refer to the upcoming election for International officers.

The newsletter was printed and forwarded to the membership on or about August 19, 1971, in conjunction solely with the referendum ballot on the question of affiliation. That ballot, a ninety-day mail referendum, was mailed to the membership of the International Organization of Masters, Mates and Pilots by the American Arbitration Association under separate mail, with all the safeguards of a secret election, on or about August 20, 1971.

The ballots for International office have not as yet been mailed from the AAA, and consequently, a period of approximately one month has already elapsed since the mailing of the Affiliation ballot and the 60th Convention Newsletter.

The practically simultaneous mailing of those two documents clearly shows, and can be construed only as indicating that the two documents relate solely to the one affiliation issue. I cannot see how it can logically or factually be found that the contents of the Newsletter can be held to be "campaign literature" relating to the yet unmailed ballots for International officers.

Plaintiff Sheldon may have complaints about the content of the 60th Convention Newsletter, since he, in fact was the only delegate at the convention who voted against the resolution merger. His complaints, however, can only conceivably refer to the merger question. His attempt to link that document to the upcoming elections is a vain and improper attempt to obtain

subsidized campaign literature from the Union.

MASTER, MATE AND PILOT
PUBLICATION, AUGUST 1971

2000a

The second document complained of is the August 1971 issue of the union's newspaper publication, The Master, Mate and Pilot.

It is again categorically denied that this publication constitutes in any manner, shape or form "campaign literature" on behalf of my re-election, or the election or re-election of any other candidates.

"The Master Mate and Pilot" is the periodic official publication of the Union. It contains matters related to Union functions, policies and activities, which is its mandate pursuant to the Constitution of the International Organization of Masters, Mates and Pilots. It is respectfully submitted that no reading of this document, either cursory or intensively, can result in a finding that the same constitutes, in any part or fashion, "campaign literature".

Once again, this document speaks for itself. The inuendos and inaccuracies in regard to the material contained in the publication, as is set forth in Sheldon's affidavit of September 15, 1971, are belied by the contents of the publication itself.

The book deals with the affairs and current activities of the organization. Sheldon complains that certain unnamed "opposition candidates" do not appear in the publication. If this is so, it is not due to the fact that the document is a piece of "campaign literature", but, rather, that these unnamed individuals have not participated in the affairs of the organization.

Moreover, it is plaintiff Sheldon alone who, in this action and in this preliminary injunction, seeks equality of treatment due to an alleged inequity in the document which he alleges to be a piece of "campaign literature". Yet, the thrust of Sheldon's complaint as set forth in his affidavit, goes to the space given to Robert J. Lowen, the current International Secretary-Treasurer, who is a candidate for re-election to that post.

Captain Sheldon is not competing for the position of Secretary-Treasurer, nor are any of the plaintiffs herein. As a matter of fact, Captain Lowen is a new officer of the International, having been elected to replace the former International Secretary-Treasurer, Captain Charles M. Crooks, who died December 29, 1970. Consequently, his biography in the "Welcome Aboard" column is entirely in keeping with the purpose of the publication, i.e., to give the membership information on current activities and developments in the Union.

SPECIAL ELECTION SUPPLEMENT

There will be handed up to the Court at the argument on the motion for a preliminary injunction, the only publication that has been issued by the defendant International Organization of Masters, Mates and Pilots containing reference to the election for office and the candidates who are seeking such office. This document is the Special Election Supplement, and is printed in conformity with the constitution of the International Organization of Masters, Mates and Pilots. As can be seen therefrom, it is completely informative and neutral, containing pictures and statements from those individuals who are running for office, and who have submitted the same for publication. This document, as self-evident, is completely neutral

[illegible] by the plaintiffs [illegible] campaign literature. At any rate, this is an issue of fact to be determined by the trier after a full hearing, and that plaintiffs, on this motion, have not demonstraced a probability that they will be successful in their claim following a hearing on merits. It is therefore respectfully urged that the application for preliminary relief sought by the plaintiffs herein be, in all respects, denied.

Thomas F. O'Callaghan

Sworn to before me this

20 day of September, 1971.

Notary Public

BURTON M. EPSTEIN
NOTARY PUBLIC, State of New York
No. 31-6194060 Qual. in New York County
Commission Expires March 30, 1972

20-3

...

...

...VIN SCHWARTZ

...
3 Waverly Place
...New York, N. Y. 10014

...

...

...is a true copy of the within

...the Hon.

...of the within named Court, at

...

...

...VIN SCHWARTZ

...
3 Waverly Place
...New York, N. Y. 10014

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LLOYD SHELDON, et al.,
Plaintiffs

vs.

THOMAS F. O'CALLAGHAN, etc.

and

DONALD B. STRAUS, etc.

Defendants.

AFFIDAVIT IN OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION

MARVIN SCHWARTZ

Attorney for ...
Office and Post Office Address, Telephone

243 Waverly Place

Borough of Manhattan New York, N. Y. 10014

...

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

...

BEST COPY AVAILABLE

C

2094a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LLOYD SHELDON, AMOS KONNIE and VICTOR SOTO,

Plaintiffs,

-against-

THOMAS T. GLEASON, AS INTERNATIONAL PRESIDENT, ETC., OF INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, AFL-CIO

-and-

DONALD B. STRAUS, AS PRESIDENT, etc. OF AMERICAN ARBITRATION ASSOCIATION,

Defendants.

71-412

MEMORANDUM ON BEHALF OF DEFENDANT INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS IN OPPOSITION TO PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

BEST COPY AVAILABLE

LANDIS & SHWARTZ
245 WAVERLY PLACE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

LLOYD SHELDON, AMOS KOONCE and VICTOR SOTO,

Plaintiffs,

-against-

THOMAS F. O'CALLAGHAN, AS INTERNATIONAL PRESIDENT, etc., OF INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, AFL-CIO

-and-

DONALD B. STRAUS, AS PRESIDENT, etc., OF AMERICAN ARBITRATION ASSOCIATION

Defendants.

----------X

MEMORANDUM ON BEHALF OF DEFENDANT INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS IN OPPOSITION TO PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

PRELIMINARY STATEMENT

Plaintiffs, by way of order to show cause, seek, on this motion, a preliminary injunction for the same relief sought, in part, in their complaint. Such relief which they now seek, prior to a hearing on the merits, is an order com-

pelling the defendant International Organization of Masters, Mates and Pilots to publish, at its own expense, "campaign literature" on behalf of plaintiff Sheldon, candidate for office of President of the International Organization of Masters, Mates and Pilots. Pending the granting of such affirmative relief, plaintiffs further seek, on this preliminary injunction, a stay of the mailing of ballots for the pending election.

Plaintiffs base their request for this preliminary mandatory relief on their bare assertion that certain publications of the International Organization of Masters, Mates and Pilots contain or constitute "campaign literature" in favor of certain candidates.

POINT I

THE PAPERS ON THIS MOTION RAISE SHARP AND SUBSTANTIAL FACTUAL ISSUES SUFFICIENT TO REQUIRE DENIAL OF THE MOTION FOR A PRELIMINARY INJUNCTION.

Plaintiffs' moving papers, as they refer to the union's publications complained of, are entirely conclusary and lacking in factual allegations, as they attempt to categorize such publications as "campaign literature".

Conspicuously absent from plaintiffs' moving affidavits, but contained in the answering affidavit of

Captain Thomas F. O'Callaghan, sworn to September 20, 1971, is much of the relevant data surrounding the genesis and nature of the publications complained of. Specifically, Captain O'Callaghan's affidavit points out that the 60th Convention Newsletter was published almost simultaneously with and solely in connection with the now pending referendum ballot with regard to the proposed merger of the MM&T and the ILA. The Newsletter was mailed August 19, 1971; the merger referendum ballot was mailed August 20, 1971. Reference to such pending referendum ballot was entirely omitted from plaintiffs' moving papers.

In addition, Captain O'Callaghan's affidavit clearly points out that the other document complained of, the August 1971 issue of the Master, Mate and Pilot, is a periodic publication charged by the MM&P's constitution with the mandate to contain matters related to the Union's "functions, policies and activities". Captain O'Callaghan's affidavit further shows that Robert J. Lowen, who is candidate for re-election as Secretary-Treasurer, and not a competitor of any of the plaintiffs herein, is in fact a new official of the Organization, and that consequently he properly appears in the "Welcome Aboard" section of the publication.

A reading of the entire publication reveals not one mention relating to the fact that any of the individuals whose names or pictures appear, are candidates for office

in the upcoming election, nor is there any reference made in that publication to the elections themselves.

In addition, the affidavit of Captain O'Callaghan categorically denies that any of the material contained in the two publications is, or can be construed, as "campaign literature".

One of the most familiar of equity axioms is"to doubt is to deny." The sharp issues of fact raised in the moving papers, on the familiar equity principles governing the issuance of preliminary injunctive relief, compels the denial of plaintiffs application for preliminary relief. Yablonski vs. United Mine Workers, 305 F. Supp. 868 (DDC 1969) Under the circumstances as described above, and as will hereafter be shown, the drastic remedy of a pre-trial injunction should be denied.

POINT II

SUBSTANTIAL LEGAL ISSUES EXIST AS TO WHETHER PLAINTIFFS ARE ENTITLED TO THE RELIEF SOUGHT, CONSTITUTING FURTHER GROUNDS FOR A DENIAL OF THE PRELIMINARY MANDATORY RELIEF SOUGHT.

In Yablonski vs. United Mine Workers, supra, plaintiff sought similar temporary relief as is being asked in the instant case, for equal access to the union's newspaper

which, it was claimed, was being used as a campaign instrument to promote the candidacy of an opponent.

For a number of reasons, the Court in that case denied the mandatory relief sought. It is submitted that such decision compels a denial of the preliminary relief sought in the instant case.

The information contained in the Master, Mate and Pilot publication of August 1971, which is the official publication of the Union, is, as stated by Captain O'Callaghan in his accompanying affidavit, information relating to the functions, policies and activities of the Union, and in no way constitutes "campaign literature". Even assuming, arguendo, after a full hearing on the matter, it is determined that certain material in that official publication was campaign literature, it is doubtful that, based on the Yablonski case, plaintiffs would even thereafter be entitled to the relief they seek.

In Yablonski, one of the elements of temporary relief sought by the plaintiff was an order providing equal space and treatment for plaintiff Yablonski in future issues of the Union's Journal until a forthcoming election would take place.

In denying this relief, the Court, as one of its

reasons, stated as follows:

> "(1) the relief requested would in effect require defendants to print certain material supplied by plaintiff. As desirable as this might be from a public interest and union viewpoint, such requirement would be a clear violation of the First Amendment insofar as it relates to the freedom of the press. Citation of cases should be unnecessary."

In its further discussion of the issues before it, which is relative not only to the material in the MM&P official publication, but also the material set forth in the Convention Newsletter, the Court in Yablonski stated as follows:

> "(2) This court lacks the statutory authority to compel this action. Section 401 (c), which permits suit by candidates to achieve certain results, does not authorize this type of relief.
>
> "(3) Section 401(g), which prohibits the use of union funds to promote the candidacy of any person and therefore would make unlawful the use of funds to support publication of the Journal when used as a campaign instrument, does not confer this authority. This is because actions for violations of Section 401(g) are enforceable only through suit by the Secretary of Labor under Section 402 ....(Citations)
>
> "(4) To grant the injunctive relief requested by plaintiff might be to compel defendants to commit further violations of Section 401 (g)."...

> "In summary, the specific relief requested by plaintiff, however desirable it would appear to be in the interests of promoting fair and democratic union elections, is beyond our statutory authority to grant and involves serious constitutional questions under the First Amendment."

It is clear, therefore, that on the basis of the legal issues involved herein, as well as the factual issues hereinabove set forth, plaintiff has not met its burden of showing a clear right to recovery, and consequently, the application for a temporary injunction must be denied. This is all the more compelling from the fact that the remedy sought by temporary injunction is the same as the ultimate remedy sought in the complaint.

POINT III

A DENIAL OF THE TEMPORARY RELIEF HEREIN SOUGHT WILL NOT DEPRIVE PLAINTIFFS OF OTHER REMEDIES FOR THE ALLEGED VIOLATION COMPLAINED OF

Title IV of the Labor Management Reporting and Disclosure Act of 1959 was designed to eliminate certain improper practices on the part of labor unions and others which interfere with the holding of fair union elections. In Section 402 of Title IV (29 USC Section 482), the

Secretary of Labor is given authority to investigate and bring a suit to set aside an election where, upon complaint of a candidate, the Secretary finds probable cause to believe that a violation of Title 401 has occured which has resulted in an invalid election. Thus plaintiffs will have such further opportunity to such vindication of their position even if the relief sought herein is denied.

CONCLUSION

FOR ALL THE FOREGOING REASONS, AND FOR THOSE SET FORTH IN THE ACCOMPANYING AFFIDAVIT, IT IS RESPECTFULLY URGED THAT THE PLAINTIFFS' MOTION FOR TEMPORARY RELIEF BE, IN ALL RESPECTS, DENIED.

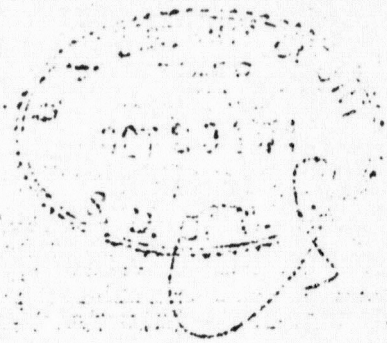
Dated: New York, New York
September 20, 1971

Respectfully Submitted,

Marvin Schwartz

Counsel for Defendant
International Organization of
Masters, Mates and Pilots

Burton M. Epstein, Esq.
OF COUNSEL



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LLOYD SHELDON, AMOS KOONCE and VICTOR SOTO,

Plaintiffs,

-v-

THOMAS F. O'CALLAGHAN, as INTERNATIONAL PRESIDENT, etc., OF INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, AFL-CIO

-and-

DONALD B. STRAUS, AS PRESIDENT, Etc., OF AMERICAN ARBITRATION ASSOCIATION,

Defendants.

71 Civ. 4113

MEMORANDUM ON BEHALF OF DEFENDANT INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, AFL-CIO, IN SUPPORT OF MOTION FOR RE-ARGUMENT

MARVIN SCHWARTZ
[illegible]
NEW YORK, NEW YORK [illegible]

D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

LLOYD SHELDON, AMOS KOONCE and
VICTOR SOTO,

Plaintiffs,

-v-

THOMAS F. O'CALLAGHAN, as INTERNATIONAL PRESIDENT, etc., OF INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, AFL-CIO

71 Civ. 4113

-and-

DONALD B. STRAUS, AS PRESIDENT, etc., OF AMERICAN ARBITRATION ASSOCIATION,

Defendants.

----------X

MEMORANDUM ON BEHALF OF DEFENDANT INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, AFL-CIO, IN SUPPORT OF MOTION FOR RE-ARGUMENT

This memorandum is submitted on behalf of defendant International Organization of Masters, Mates and Pilots, AFL-CIO, in support of its motion for re-argument of plaintiffs' motion heard by the Honorable Thomas F. Croake on September 21, 1971, and upon which he issued his memorandum decision on October 18, 1971, filed with the Court on October 19, 1971.

The motion for re-argument is with respect to one aspect of Judge Croake's decision, that dealing with the furnishing of a certified mailing list of the membership of one of the constituent bodies of the defendant International to a candidate for elective office of that subordinate body.

The motion to re-argue is made on the ground that the issue concerning the membership list was not before the Court on the plaintiffs' application for certain other preliminary relief, and was a matter on which no evidence or verified statements in connection therewith were submitted to the Court on the return date of the motion, and was a matter on which no hearing was held.

BACKGROUND OF LITIGATION

This lawsuit concerns matters arising out of an election for officers of the defendant International Organization of Masters, Mates and Pilots. Suit was commenced on September 16, 1971, by the filing and service of a complaint. One aspect of the ultimate relief sought by one of the plaintiffs, Victor Soto, a candidate for elective office in one of the subordinate bodies of the defendant International, was a physical copy of a certified

mailing list of the membership of the subordinate body, known as former Local 88 of the International Organization of Masters, Mates and Pilots.* 2017a

On September 17, 1971, an Order To Show Cause, returnable on September 21, 1971, was signed by the Honorable Edward C. McLean.

The Order To Show Cause was supported by two affidavits of Lloyd Sheldon, one of the plaintiffs in this action, but not the plaintiff seeking the mailing list,and one affidavit of Burton H. Hall, counsel for the plaintiffs.

In none of these affidavits, nor in any of the exhibits annexed thereto, was there any reference to the mailing list.

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*This memorandum is not properly the place for argument on the merits of Plaintiff Soto's demand for a physical copy of the membership voting list. However, as will be pointed out subsequently, this same issue was raised several years ago in a 1967 Local 88 election. The election was held under the auspices of the American Arbitration Association. Its arbitrator, Israel Ben Scheiber, ruled that the Local 88 By-Laws did not give a candidate the right to physical possession of a copy of the membership mailing list. He ruled that inspection of the membership list and the submission of campaign literature to an impartial mailing service constituted compliance, and this same procedure is being followed by defendant International in this election. A subsequent 1969 Local 88 election was held in which the ruling of Arbitrator Scheiber was followed. In addition, there is no requirement under the Labor Management Reporting and Disclosure Act that a candidate for union office must be given physical possession of a voter mailing list.

Moreover, in the Order to Show Cause seeking preliminary injunctive relief, no request whatsoever was made with regard to the membership mailing list. The application for preliminary relief dealt solely with the request by one of the plaintiffs, Lloyd Sheldon, for campaign literature to be printed and distributed for him at the expense of the defendant International.

POINT I

THE COURT IMPROPERLY MADE FINDINGS OF FACT AND DIRECTED RELIEF ON A MATTER IN ISSUE ON WHICH NO EVIDENCE OR VERIFIED STATEMENTS WERE SUBMITTED BY THE MOVING PARTIES, ON WHICH NO HEARING WAS HELD, AND ON WHICH NO REQUEST FOR RELIEF WAS MADE BY THE MOVING PARTIES

At the time of argument on plaintiffs' motion, the only document containing a demand for relief regarding the membership mailing list, and containing allegations with respect thereto, was the complaint that had been filed by the plaintiffs only five days prior thereto. No answer to the complaint was as yet due, and, as stated above, none of the papers submitted to the Court on the motion related to or discussed the mailing list. The moving Order to Show Cause contained no demand for relief relative to the membership list. On oral argument, no mention of the

membership list issue was made by counsel for plaintiffs, nor by counsel for the defendant, nor by the Court.

A timely answer to the complaint was served by defendant International Organization of Masters, Mates and Pilots on October 5, 1971, and filed with the Court on October 6, 1971, in which the defendant denied the allegations in the complaint referring to plaintiff Soto's alleged right to the certified mailing list, which plaintiff Soto interprets as the right to physically possess such list.

The opinion of Judge Croake, dated October 18, 1971, is thus in error when he states, referring to the allegations set forth in the complaint regarding the membership list, that they are "not disputed by defendants, ..." Opinion page 11. These facts were disputed in the answer of defendant International filed with the Court on October 6, 1971, prior to Judge Croake's opinion of October 18, 1971.

POINT II

AT A HEARING OR PROCEEDING ON THE MEMBERSHIP LIST ISSUE, DEFENDANT INTERNATIONAL WILL PRESENT EVIDENCE SHOWING PLAINTIFF IS NOT ENTITLED TO THE RELIEF HE SEEKS

This memorandum is not properly the vehicle for argument of the merits of plaintiff's alleged right to physically possess a copy of the membership list of the

subordinate body in which he is a candidate for elective office. Suffice it to say, however, that at an appropriate hearing, defendant International will present evidence to show that plaintiff is not entitled to the relief he seeks.

Among other things, defendant International will show that during a prior election of officers of former Local 88, held in 1967, Israel Ben Scheiber, an arbitrator for the American Arbitration Association, under whose auspices the Local 88 election was conducted, determined, on the same question of the right of a candidate to physical possession of the membership list, that the Local 88 By-Laws did not require the physical delivery of a mailing list to a candidate for local office. A subsequent Local 88 election was held in 1969 which followed and abided by the 1967 ruling of Arbitrator Scheiber.

CONCLUSION

The memorandum opinion of the Honorable Thomas F. Croake improvidently made findings of fact and issued directions with regard to the voter mailing list, in view of the fact that no verified statements or evidence was presented to the Court on the return of the motion with regard to that matter, and no hearing was held with respect thereto. Moreover, no demand for relief with regard to the

membership list was contained in plaintiffs' order to show cause. The only allegations with regard to the plaintiff's purported right to the physical possession of the voting list was contained in plaintiffs' complaint, which allegations were timely denied in the answer of defendant International Organization of Masters, Mates and Pilots, filed with the Court on October 6, 1971, prior to the issuance of Judge Croake's October 18, 1971 memorandum opinion. The motion for re-argument should be granted, and upon such re-argument, the opinion of Judge Croake should be modified so as to delete any findings and directions with regard to the membership mailing list.

Dated: New York, New York
October 27, 1971

Respectfully submitted,

MARVIN SCHWARTZ
Counsel for Defendant International Organization of Masters, Mates and Pilots
243 Waverly Place
New York, New York

Burton M. Epstein, Of Counsel

2022a

STATE OF NEW YORK, COUNTY OF NEW YORK ss.: AFFIDAVIT OF SERVICE BY MAIL

Patricia A. Monaco

being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at

215 W. 16th Street, New York, N.Y. 10011

That on the 27th day of October 1971 deponent served the within Memorandum in Support of Motion

upon Burton H. Hall, Esq. attorney(s) for Plaintiffs in this action, at 401 Broadway, New York, N.Y. 10013

the address designated by said attorney(s) for that purpose

by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in — a post office — official depository under the exclusive care and custody of the United States post office department within the State of New York.

Sworn to before me, this 27th day of October, 1971 Patricia A. Monaco

Burton H. Hall

BURTON H. HALL
NOTARY PUBLIC, State of New York
No. 31-5194570 Qual. in New York County
Commission Expires March 30, 1972

E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2024a

LLOYD SHELDON, AMOS KOONCE and VICTOR SOTO,

Plaintiffs,

-against-

THOMAS F. O'CALLAGHAN, as International President, or ROBERT J. LOWEN, as International Secretary-Treasurer, or WILLIAM CALDWELL, as International Vice President of International Organization of Masters, Mates & Pilots, AFL-CIO,

-and-

DONALD B. STRAUS, as President, or ROBERT COULSON, as Executive Vice President, or MARGARET U. CARLSON, as Election Director, or JOSEPH S. MURPHY or JOHN P.E. BROWN or MORRIS STONE or EDWIN W. DIPPOLD or WILLOUGHBY ABNER, as Vice President of American Arbitration Association,

Defendants.

71 CIV. 4113

C O M P L A I N T

The plaintiffs, as and for their complaint, by their attorney, BURTON H. HALL, ESQ., respectfully show the Court as follows:

FIRST: That plaintiffs bring this action under Section 401(c) of the Labor-Management Reporting and Disclosure Act of 1959, 29 USC 481(c), and that jurisdiction over this cause of action is conferred upon the Court by said section.

SECOND: That defendant INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS, AFL-CIO, (hereinafter referred to as International) is and at all times herein mentioned has been an unincorporate association composed of more than ten members and an international or national labor organization engaged in an industry affecting commerce within the meaning of the Labor-Management Reporting and Disclosure Act of 1959 and the recognized representative of employees under the provisions of the National Labor Relations Act as amended. International

maintains its principal office at 30 Broadway in the City, County and State of New York and within the geographical jurisdiction of this Court.

THIRD: That defendant AMERICAN ARBITRATION ASSOCIATION (hereinafter American) is and at all times herein mentioned has been an unincorporate association composed of more than ten members, with its principal office at 140 West 51st Street in the City, County and State of New York and within the geographical jurisdiction of this Court.

FOURTH: That International, by its Constitution and By-Laws, is scheduled to hold and conduct and will hold ;and conduct an election in the Fall 9 1971 for its International Officers, to wit: International President, International Secretary-Treasurer, and International Vice President. It wil and is scheduled to hold the said election by mail ballot over a ninety-day period commencing sometime in September 1971. The said ballots will be mailed out to members of International, received from such members, and counted by American, which has entered into an agreement with International to perform such functions.

FIFTH: Until 1971, International was composed of some nine or more local unions, each of which was governed by its own by-laws, providing for the election of local officers and guaranteeing to members thereof of certain rights. By the adoption of a new constitution in the Spring of 1970 and the subsequent entrey into effectthereof, the various local unions ormost of them were merged into one subordinate body known as the "Offshore Division," with different branches in the major ports of the United States. By the provisions of the by-laws of the said Offshord Division, the said Division is scheduled to elect its officers, including port agents, executive assistant port agents and assistant port agents, which officers are to replace the various presidents, secretary-treasurers and patrolman ofthe former local unions, in the Fall of 1971. However,the by-laws of the said Offshore Division provide that as regards the elections to be conducted in the Fallof 1971, the various ports will be governed bythe by-laws of the former local unions, thus providing that the elections for thevarious port agent, executive assistant port agent and assistant port agent posts will be conducted in accordance with the provisions of the various by-laws of the formerlocals relating to election of president,

secretary-treasurer and patrolmen.

SIXTH: One of ;the former local unions subsequently merged as aforesaid into the Offshore Division is Local 38 of International, now known as the New York Branch of the Offshore Divisionof International. Each of the plaintiffs is a member of the said New York Branch and was a member of the former Local 38 in good standing, and plaintiff Soto is a duly nominated and bona fide candidate for the office of Assistant Port Agent of the said Branch in the Fall 1961 election.

SEVENTH: At the Convention of International held in July 1971, plaintiff Sheldon was duly nominated for the office of International President of International and plaintiff Koonce was duly nominated for the office of International Vice President of International, and both are bona fide candidates for the said offices.

EIGHTH: Under the constitution and by-laws of the International, an International Ballot Committee is to be elected to conduct or supervise the conduct of the elections for the three International Officers. Under the by-laws of ;the Offshore Division and of the various former Locals, the membership ofthe said local unions and the elected ballot committees, elected by the membership of the said local unions, is to have the right to govern the elections of such local officers as are to be elected in the various ports.

NINTH: Contrary to the provisions of the by-lawsof the Offshore Division and of the various former locals, the International Ballot Committee elected at the July 1971 Convention of International has usurped and arrogated to itself the right and power of conducting the electionsof the various local officers and has thereby deprived the membershipof the various branches and/or former locals to governtheir own elections and to adopt rules relative thereto andhas taken the powers of the local ballot committees away fromthem. Moreover, by its rulings, the International Ballot Committee has denied to members of the various Branches and various former local unions many of their rights inconnection with the election of officers; Among such rights is the right guaranteed by the third sentence of Section 3, Article 5, of theby-laws of the former Local 38, which provides that : "A certified mailing list of all members of Local 38 shall be made available at cost to all candidates, provided however, that any postage charges shall not be billed to this Organization."

TENTH: Plaintiff Coto, after becoming a bona fide candidate for Assistant Port Agent, New York Branch, made due andproper request to have a certified mailing list of Local 33's members made available to him but his request was refused; he appealed to the International Ballot Committee but the same ruled against him and refused his request, and he has exhausted all remedies available to him within International in regardto such appeal.

ELEVENTH: In or about August 19, 1971, the International Officers of International caused to be printed and published at the expense of International and by International, an eight-page leaflet, entitled "60th Convention Newsletter on the Resolution of Affiliation of the IOMM&P with the ILA, Published by International Organization of Masters, Mates and Pilots," and distributed the same by mail to International's members; the said leaflet is in reality a piece of campaign literature praising and urging the re-election of the incumbent International President, Thomas F. O'Callaghan, and denouncing the plaintiff Sheldon, accusing Plaintiff Sheldon of treason, of taking bribes or payments from enemies of the International or from "outside sources," and of seeking to harm and injure International, and of being racist and evil,and in addition of being a liar, an imbecile, a fink, a character assassin, and many other evil things; and the said leaflet was caused to be published and so distributed by International by its officers and in particular by its International President, the said Thomas F. O'Callaghan.

TWELFTH: By letter of August 25, 1971, plaintiff Sheldon made request of International and of the International President thereof to have similar distribution given to a piece of campaign literature to be submitted by himself; but International andthe International .resident failed to reply; plaintiff Sheldon thereafter appealed to the International Ballot Committee and to American, but both of these refused to entertain his appeal. By these appeals, plaintiff Sheldon has exhausted all remedies reasonably available to him within International.

THIRTEENTH:
On or about September 12, 1971, International, by its officers, published, printed and distributed to its members, at International's expense, a handsome and expensively printed 48-page booklet entitled

The Master, Mate & Pilot, August 1971 issue. The said booklet contains many glowing and flattering comments and biographies of incumbent officers, and especially of the three International Officers, who are running for re-election, with pictures of many of them; the whole is, therefore, in whole or in part, a piece of campaign literature printed and distributed in support of the candidacies of international and local incumbent officers running for re-election.

FOURTEENTH: Plaintiffs have duly requested that similar distribution, with equal treatment as to expense, be given campaign literature to be submitted by them, but their requests are and have been futile.

FIFTEENTH: Unless otherwise ordered by this Court the defendant International and the defendant American will fail and refuse to remedy the violations of law complained of and will continue to infringe the rights of plaintiffs as aforesaid, and as a result plaintiffs will suffer grievous and material and irrepearable injury in the loss of valuable rights in their union, for which there is no adequate remedy at law.

WHEREFORE: Plaintiffs demand judgment as follows:

1. Permanently enjoining defendants, their officers, employees, servants and attorneys, and all persons in active concert or participation with any of them, from usurping or denying the rights of the membership or of the local ballot committees of any Branch or local union of International and from causing the International Ballot Committee to do the same;

2. Permanently enjoining defendants, their officers, etc., from mailing to members of International ballots in the Fall 1971 election until such time as distribution similar to that given the campaign literature described herein has been given to equivalent campaign literature prepared by plaintiffs, with equal treatment as to expense;

3. Permanently enjoining and directing defendants to make available to candidates for office in the former Local 333 certified copies of the mailing list of members;

4. Enjoining and directing defendants to print or cause to be printed and to distribute by mail and otherwise to all members of International campaign literature equivalent in size and form to that described

herein, the text of the same to be submitted by plaintiffs;

5. for the costs anddisbursements of this action, including a reasonable attorneys' fee; and

6. for such other, further anddifferent relief as may be just and appropriate.

BURTON H. HALL
Attorney for Plaintiff
401 Broadway
New York, N.Y., 10013
431-9114

Dated: September 15, 1971
New York, N.Y.

2030a

Sir: Please take notice that the within is a *(certified)* true copy of a duly entered in the office of the clerk of the within named court on 19

Dated.

Yours, etc.,

Attorney for

Office and Post Office Address

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:—Please take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on the day of 19

at M.

Dated,

Yours, etc.,

Attorney for

Office and Post Office Address

To

Attorney(s) for

LLOYD SHELDON, et al.,

Plaintiffs,

-against-

THOMAS F. O'CALIAGHAN, as International President, etc., et al.,

Defendants.

COMPLAINT

BURTON H. HALL
Attorney for Plaintiffs
Office and Post Office Address, Telephone
401 Broadway
New York, N.Y., 10013
431-9114

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

.....

Attorney(s) for

©1963-©1963. JULIUS BLUMBERG, INC., 80 EXCHANGE PLACE, N. Y. 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2031a

----------X

LLOYD SHELDON, AMOS KOONCE and VICTOR SOTO,

Plaintiffs,

-against-

THOMAS F. O'CALLAGHAN, as International President, or ROBERT J. LOWEN, as International Secretary-Treasurer, or WILLIAM CALDWELL, as International Vice President of International Organization of Masters, Mates & Pilots, AFL-CIO,

-and-

DONALD B. STRAUS, as President, or ROBERT COULSON, as Executive Vice President, or MARGARET U. CARLSON, as Election Director, or JOSEPH S. MURPHY or JOHN P.E. BROWN or MORRIS STONE or EDWIN W. BIPPOLD or WILLOUGHBY ABNER, as Vice President of American Arbitration Association,

Defendants.

----------X

ANSWER

71 Civil 4113

Defendant, Thomas F. O'Callaghan, as International President, or Robert J. Lowen, as International Secretary-Treasurer, or William Caldwell, as International Vice President of International Organization of Masters, Mates & Pilots, AFL-CIO (hereinafter referred to as "International") by its attorney, Marvin Schwartz, as and for its answer to the complaint, respectfully alleges as follows:

1. Denies the allegations set forth in Paragraph "FIRST" of the complaint.

2. Denies the allegations set forth in Paragraph "SECOND" of the complaint, except admits that the defendant International is a labor organization engaged in an industry affecting commerce, with an office at 39 Broadway, New York, New York.

3. Denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph "THIRD" of the complaint.

4. Admits the allegations set forth in Paragraph "FOURTH" of the complaint, except that the ballots referred to in said paragraph have been mailed.

5. Denies the allegations set forth in Paragraph "FIFTH" of the complaint.

6. Denies the allegations set forth in Paragraph "SIXTH" of the complaint, except admits that former Local 88 of the International is now the Offshore Division, Port of New York, of the International Organization of Masters, Mates and Pilots; that each of the plaintiffs is a member of the said Port of New York branch and was a member of the former Local 88 in good standing; and that plaintiff Soto is a duly nominated and bona fide candidate for the office of Assistant Port Agent of the Port of New York in the Fall 1971 election.

7. Denies the allegations set forth in Paragraphs "EIGHTH", "NINTH", "ELEVENTH", "TWELFTH", "THIRTEENTH", FOURTEENTH", and "FIFTEENTH" of the complaint.

8. Denies the allegations set forth in Paragraph "TENTH" of the complaint, except admits that the International Ballot Committee denied the appeal of plaintiff Soto, and that such plaintiff has exhausted all remedies available to him within the International in regard to such appeal.

AS AND FOR A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE, DEFENDANT INTERNATIONAL ALLEGES:

9. The complaint fails to state a claim against defendants upon which relief can be granted.

AS AND FOR A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE, DEFENDANT INTERNATIONAL ALLEGES:

2033a

10. The Court lacks jurisdiction over the subject matter of the cause of action set forth in the complaint.

WHEREFORE, defendant International demands judgment that the complaint be dismissed with costs, disbursements and reasonable attorneys fees.

Dated: October 4, 1971
New York, New York

MARVIN SCHWARTZ
Attorney for Defendant International

By [signature]

Office and P.O. Address:

243 Waverly Place
New York, New York 10014

2034a

STATE OF NEW YORK, COUNTY OF

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that the within has been compared by the undersigned with the original and found to be a true and complete copy.

Dated:

ATTORNEY'S VERIFICATION

STATE OF NEW YORK, COUNTY OF

The undersigned, an attorney admitted to practice in the courts of New York State, shows: that deponent is the attorney(s) of record for in the within action; that deponent has read the foregoing and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. Deponent further says that the reason this verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

INDIVIDUAL VERIFICATION

STATE OF NEW YORK, COUNTY OF

, being duly sworn, deposes and says that deponent is the in the within action; that deponent has read the foregoing and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Sworn to before me, this day of 19

CORPORATE VERIFICATION

STATE OF NEW YORK, COUNTY OF

, being duly sworn, deposes and says that deponent is the of the corporation named in the within action; that deponent has read the foregoing and knows the contents thereof; and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

This verification is made by deponent because corporation. Deponent is an officer thereof, to-wit, its is a

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me, this day of 19

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK, COUNTY OF NEW YORK

Patricia A. Monaco

being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 215 W. 16th Street, New York, N.Y. 10011

That on the 5th day of October, 19 71 deponent served the within Answer upon Burton H. Hall, Esq. attorney(s) for Plaintiffs in this action, at 401 Broadway, New York, N.Y. 10013 and the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in a post office or official depository under the exclusive care and custody of the United States post office department within the State of New York.

Sworn to before me, this 5th day of October, 1971

*Gerald Aksen, Esq. Attorney for Defendant American Arbitration Assoc. at 140 W. 51st Street, New York, New York 10020

AFFIDAVIT OF SERVICE

STATE OF NEW YORK, COUNTY OF

being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides at

That on the day of 19 at No. deponent served the within upon the herein, by delivering a true copy thereof to said person mentioned and described in said papers as the

Sworn to before me, this

NOTICE OF ENTRY

Sir: Please take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on 19

Yours, etc.

MARVIN SCHWARTZ

Attorney for

Office and Post Office Address

243 Waverly Place

Borough of Manhattan New York, N. Y. 10014

To

Attorney for

NOTICE OF SETTLEMENT

Sir: Please take notice that an order of which the within is a true copy will be presented for settlement to the Hon. one of the judges of the within named Court, at on the day of 19 at M.

Dated,

Yours, etc.

MARVIN SCHWARTZ

Attorney for

Office and Post Office Address

243 Waverly Place

Borough of Manhattan New York, N. Y. 10014

Index No. 4113 Year 1971

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LLOYD SHELDON, et al.,

Plaintiffs,

vs.

THOMAS F. O'CALLAGHAN, etc.

and

DONALD B. STRAUS, etc.

Defendants.

ANSWER

MARVIN SCHWARTZ

Attorney for Defendant International Organization Of Masters, Mates and Pilots

Office and Post Office Address, Telephone

243 Waverly Place

Borough of Manhattan New York, N. Y. 10014

691-6280

To

Attorney(s) for

Service of a copy of the within is hereby admitted.

Dated,

Attorney(s) for

G

LAW OFFICES

MARVIN SCHWARTZ

243 WAVERLY PLACE

NEW YORK, N. Y. 10014

2036a

MARVIN SCHWARTZ
BURTON M. EPSTEIN

(212) 691-2250

October 28, 1971

Honorable Thomas F. Croake
United States District Judge
United States District Court
for the Southern District of N.Y.
U. S. Courthouse
Foley Square
New York, New York

Re: Sheldon, et al.
vs.
O'Callaghan (International Organization of Masters, Mates and Pilots) et ano
71 Civil 4113

Dear Judge Croake:

Enclosed herewith please find a proposed counter-order submitted on behalf of our client, defendant International Organization of Masters, Mates and Pilots in regard to the above captioned matter and your memorandum opinion dated October 18, 1971.

The accompanying order, we feel, complies with your Honor's direction with regard to the equality of treatment to be given to campaign literature of plaintiff Sheldon. It provides for reimbursement to him of reasonable expenses for publishing and distributing to the members of the International Organization of Masters, Mates and Pilots a piece of campaign literature of no more than eight printed pages in length, in a manner similar to the publication and distribution given the newsletter which your Honor found to be campaign literature on behalf of Thomas F. O'Callaghan.

Our proposed order with regard to this aspect of your opinion is at variance from the proposed order of counsel for the plaintiff, to the extent that plaintiffs' counsel wants defendant International Organization to publish and distribute plaintiff's campaign literature.

During the course of the argument before your Honor, counsel for plaintiffs submitted to the undersigned a document that he described as a campaign piece that plaintiff Sheldon wanted the defendant International Organization to print and distribute in the name of the International. We attach hereto a copy of that document.

2037a

It is respectfully submitted that this document is scurrilous and scandalous, and contains material which could be found to be libelous. We do not feel that the defendant International, as the would-be distributor and author of this literature, should be subjected to a possible libel suit, and consequently, we have limited the obligation of the International, in our proposed order, to a reimbursement of expenses to the plaintiffs, which we feel is in keeping with your Honor's decision and the statutory provisions (29 USC Sect. 481(c)) on which the decision was predicated. If the plaintiff wishes to risk publishing libelous material, that is his option, but it is not one that should fall on the International Organization.

The International election is being conducted under the auspices of the American Arbitration Association. The procedures for distribution of campaign literature, to which the plaintiff Sheldon has already availed himself, are simple and afford access to the voting membership of the International Organization of Masters, Mates and Pilots.

Procedurally, a candidate wishing to distribute literature prepares the mailing piece, places the same in a stamped, sealed envelop and delivers the envelopes containing the literature to the AAA. The AAA then affixes an address label to the envelope containing the literature. These name and address labels derive from the official membership voting lists, in the custody of the AAA, and consequently assure that all voting members of the International will receive the campaign literature sought to be distributed.

Thus, such distribution through the AAA facilities assures a complete mailing of campaign literature to all authorized voting mem

Our proposed order contains no direction with regard to the mailing list of the former Local 88 members, pending a motion to reargue that aspect of the motion. Such motion papers have been serve and the motion is returnable November 9, 1971.

It is respectfully submitted that the direction with regard to the mailing list, was improvidently ordered by your Honor.

In none of the motion papers before your Honor, either in the Order to Show Cause, the two affidavits of plaintiff Lloyd Sheldon the affidavit of Burton H. Hall, counsel for plaintiffs, was any

reference made to the former Local 88 mailing list, nor was any demand for relief with respect thereto contained in the Order to Show Cause. No discussion with regard thereto was had at the return of the motion. Such ultimate demand for relief, and allegations with respect thereto, were contained only in the complaint of the plaintiffs, and were not the subject of any verified statement or evidence presented to your Honor.

At the time that the motion was before the court, on September 21, 1971, only five days had elapsed since the service on defendant International Organization of Masters, Mates and Pilots of the summons and complaint. No answer to the complaint was as yet due, and, as stated above, none of the papers submitted on the motion related to the mailing list.

A timely answer to the complaint was served by defendant International Organization of Masters, Mates and Pilots on October 5, 1971 and filed in court on October 6, 1971, in which the defendant denied the allegations in the complaint referring to plaintiff Soto's alleged right to the certified mailing list, which plaintiff Soto interprets as the right to physically possess such list. He has in no way been denied access to the mailing list.

Without encumbering this letter with argument on the merits of plaintiff's claimed rights with regard to physical possession of the Local 88 mailing list, suffice it to say that during a prior Local 88 election, in 1967, Israel Ben Scheiber, an arbitrator for the American Arbitration Association, under whose auspices the Local 88 election was conducted, determined, on the same question of the right of a candidate to physical possession of the membership list, that the Local 88 By-Laws did not require the physical delivery of a mailing list to a candidate for local office. A subsequent 1969 Local 88 election followed and abided by Arbitrator Scheiber's ruling, and the exact same procedure (the inspection of the list and the submission of campaign literature to an impartial mailing service) is being followed by the defendant International Organization in this election.

We respectfully submit that the election list matter, on which an issue has been raised by the pleadings, and in which no evidence was submitted to the court, is an issue that should not have been determined on the motion before the court.

We apologize to your Honor for the length of this letter. The

issues involved, however, and the serious problem presented by the proposed order of counsel for the plaintiffs, require us to submit it to you.

Should your Honor feel that a meeting of counsel before you would be of help in resolving the question of the order to be signed, we would be most eager and happy to attend.

Respectfully yours,

MARVIN SCHWARTZ

By Burton M. Epstein
Burton M. Epstein

BME/pam
Enclosure

cc: Burton H. Hall, Esq.

Gerald Aksen, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LLOYD SHELDON, AMOS KOONCE and VICTOR SOTO,

Plaintiffs,

-v-

ORDER

THOMAS F. O'CALLAGHAN, as INTERNATIONAL PRESIDENT, etc., OF INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, AFL-CIO

71 Civ. 4113

-and-

DONALD B. STRAUS, AS PRESIDENT, etc., OF AMERICAN ARBITRATION ASSOCIATION,

Defendants.

Plaintiffs, having moved this court for an order pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining and directing the defendants, pending trial and ultimate disposition of this action, to cause to be printed and distributed to members of the defendant International Organization of Masters, Mates and Pilots, AFL-CIO, in the name of and at the expense of the defendant International, campaign literature on behalf of the plaintiffs, and further moving for an order enjoining and restraining defendants from mailing or causing or allowing to be mailed to members of the defendant International Organization of Masters, Mates and Pilots any ballots in connection with the election of International officers until such time as the said campaign literature shall have been printed and mailed; and the motion having come on before this court to be heard on the 21st day of September, 1971, and plaintiffs, by their attorney Burton H. Hall having been heard in support of the motion, and defendant International Organization of Masters, Mates and Pilots, AFL-CIO,

by their attorney Marvin Schwartz, Esq., by Burton M. Epstein, of counsel, having been heard in opposition to the motion, and the court having rendered its memorandum opinion on October 18, 1971, filed with the court on October 19, 1971, it is

ORDERED that the plaintiffs' motion be and it hereby is granted in part and denied in part, and it is further

ORDERED that plaintiffs' application to restrain mailing of the ballots for International office pending the printing and distribution of campaign literature on behalf of plaintiff Sheldon be denied; and it is further

ORDERED that the defendant International Organization of Masters, Mates and Pilots, AFL-CIO, shall pay to the plaintiffs their reasonable costs for publishing and distributing to the members of the International Organization of Masters, Mates and Pilots, a piece of campaign literature of no more than eight printed pages in length, in a manner similar to the publication and distribution given the newsletter entitled "60th Convention Newsletter of the Resolution of Affiliation of the IOMM&P with the ILA,"; and it is further

ORDERED that pending a motion to re-argue the motion of September 21, 1971, with respect to the physical possession of the mailing list of the members of former Local 88, no directions with respect thereto shall issue.

Dated: New York, New York
October , 1971

U.S.D.J.

CERTIFICATION BY ATTORNEY

STATE OF NEW YORK, COUNTY OF

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that the within has been compared by the undersigned with the original and found to be a true and complete copy.

Dated:

ATTORNEY'S AFFIRMATION

STATE OF NEW YORK, COUNTY OF

The undersigned, an attorney admitted to practice in the courts of New York State, affirms that deponent is the attorney(s) of record for in the within action; that deponent has read the foregoing and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. Deponent further says that the reason this verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

INDIVIDUAL VERIFICATION

STATE OF NEW YORK, COUNTY OF ss.:

, being duly sworn, deposes and says that deponent is the in the within action; that deponent has read the foregoing and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Sworn to before me, this day of 19

CORPORATE VERIFICATION

STATE OF NEW YORK, COUNTY OF ss.:

, being duly sworn, deposes and says that deponent is the of the corporation named in the within action; that deponent has read the foregoing and knows the contents thereof; and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

This verification is made by deponent because is a corporation. Deponent is an officer thereof, to-wit, its

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me, this day of 19

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK, COUNTY OF NEW YORK ss.:

Patricia A. Monaco

being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 215 West 15th Street, New York, N.Y. 10011

That on the 28th day of October 1971 deponent served the within counter-order upon Burton S. Hall, Esq.* attorney(s) for Plaintiffs in this action, at 401 Broadway, New York, N.Y. 10013, the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in — a post office — official depository under the exclusive care and custody of the United States post office department within the State of New York.

Sworn to before me, this 28th day of October, 1971

and upon Gerald Rosen, Esq. attorney for defendant American Arbitration Association at 140 West 51st Street, New York, N.Y. 10020.

STATE OF NEW YORK, COUNTY OF ss.:

AFFIDAVIT OF SERVICE

being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and

That on the day of 19 at No.

Index No. 4113 Year 19 71

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LLOYD SHELDON, et al.,

Plaintiffs,

vs.

THOMAS F. O'CALLAGHAN, etc.

-and-

DONALD B. STRAUS, etc.

Defendants.

COUNTER-ORDER

MARVIN SCHWARTZ
Attorney for Defendant International Organization of Masters, Mates and Pilots
Office and Post Office Address, Telephone
243 Waverly Place
Borough of Manhattan New York, N. Y. 10014
691-2230

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

.....

NOTICE OF ENTRY

Take notice that the within is a (*certified*)

in the office of the clerk of the within

on 19

Yours, etc.,

MARVIN SCHWARTZ

Office and Post Office Address
243 Waverly Place
Manhattan New York, N. Y. 10014

for

NOTICE OF SETTLEMENT

Take notice that an order counter-

the within is a true copy will be presented

for settlement to the Hon.

one of the judges of the within named Court, at

Foley Square Courthouse
Square, New York, N.Y.

on the day of November, 1971

at 10:00 A.M.

October 28, 1971

Yours, etc.

MARVIN SCHWARTZ

Attorney for Defendant International Organization of Masters, Mates and Pilots

Office and Post Office Address
243 Waverly Place
Borough of Manhattan New York, N. Y. 10014

To Peter H. Feil, Esq.

MARVIN SCHWARTZ
MARTIN SCHWARTZ
CLINTON M. EPSTEIN

LAW OFFICES
MARVIN SCHWARTZ
243 WAVERLY PLACE
NEW YORK, N. Y. 10014

October 28, 1971

2044a

"60th Convention Newsletter on the Resolution of Affiliation of the IOMM&P with the ILA"

published pursuant to Court Order 64

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS
39 BROADWAY, NEW YORK, NEW YORK 10006
AFFILIATED WITH AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS
INTERNATIONAL TRANSPORTWORKERS FEDERATION RAILWAY LABOR EXECUTIVES' ASSOCIATION
FOUNDED 1880

MDU Candidates Comment on the Merger Resolution

The candidates running for International and Division office on the MDU slate have come out sharply against the proposed "swallow up" of MM&P by ILA. As the only rank and file delegate at the July 1971 IOMM&P Convention (every other delegate there was on the Union payroll) I voted against the merger, in order to preserve IOMM&P. I am proud that the MDU slate supports me right down the line on this issue.

As Brother Charles Hemming puts it: "How can it be possible for our Union to maintain its MM&P identity as the Marine Division of ILA when right from the outset any member who opposed the deal is denounced [in O'Callaghan's phony "Convention Newsletter"] as an imbecile and worse. Is that union democracy?

"Is it union democracy when our officials allow the president of the longshoremen's union to interfere in our internal affairs even before we have become an appendage of his organization?"

Bro. Amos Koonce adds that the MM&P representatives on the longshoremen's General Executive Board (who will be appointed by O'Callaghan not elected by the membership) will have only as much weight as the ILA leaders want them to have.

Bro. Chas. Norstrand says: "If this anti-no resolution is voted up, MM&P and every other officer union will eventually be controlled by the unlicensed majority of waterfront or waterfront-related workers. Our Shoreside Division will grow rapidly, especially if flooded with longshoremen. Our "Associated Maritime Workers" setup is being flooded now with individuals whose eligibility for membership is questionable. Under our Constitution, an unlicensed man can be president of MM&P. Are you ready to accept a longshoreman, unlicensed boatman or barge worker as president of our Licensed Deck Officers union? I am not."

O'Callaghan's last-minute smear sheet.

Just before ballots were to be mailed out in the IOMM&P election, O'Callaghan sent out a lying smear sheet attacking all his opponents as "flunkies" (and worse) of the MMEBA -- in short, accusing everybody who opposes his rule over IOMM&P as being a traitor to the IOMM&P.

His most savage attack he aimed at me. Using quotes from a speech Gleason made at our last convention, he accused me of taking money from "outside sources" to campaign against him.

Gleason and O'Callaghan are off the b They are liars. I have taken no money any "outside source" and I am nobody's "flunky." My loyalty to MM&P is not to question by Gleason or by any other sider.

Every leaflet I have had anything to with circulating has been paid for by or by contributions from other MM&P me If O'Callaghan and Gleason think they make MM&P members believe that I am on outsider's payroll, then they are wast in their "Newsletter," accuse MM&P ra filers of being -- imbeciles.

[illegible]

At two consecutive meetings held in New York, Members for a Democratic Union (MDU) voted unanimously to oppose the merger of MM&P with ILA. In other ports, from coast to coast and in the Gulf, members have voiced strong opposition to the merger.

One of the protests most commonly heard concerns the "credibility gap" that exists as far as MM&P officials are concerned. The officials talk about their merger being for the benefit of the members, but the real purpose seems to be to use ILA "muscle" to keep the MM&P membership in line -- for the sake of the officials.

Each week the officials sing a different song, with the same refrain. First they told us we needed consolidation in order to keep our Union. Now O'Callaghan claims we need a merger with ILA in order to keep our Union. What next? What else is he going to say we must give up, in addition to our local autonomy and our International charter itself, in order to "keep our Union"?

Last winter we set up picket lines in front of the Lash Italia on O'Callaghan's orders. The Brooklyn longshoremen walked through our picket lines and worked the ship behind them. Were they helping us to "keep our Union"? Were they helping us keep jurisdiction over LDO jobs? Most members think the longshoremen were crabbing on us -- and [illegible] scabbing is a strange way to help anybody "keep his Union."

Local 88 Candidates Speak Up:

The MDU slate of candidates in Local 88 has blasted the supposed "affiliation" in a recent joint statement.

"This is a merger - pure and simple," says a statement issued by Brothers Hemming, Clifford, Burlingame, Soto, Neresux, Seybert and Morallis. They warn that in surrendering our AFL-CIO charter and becoming a mere "division" in somebody else's Union, we are surrendering our historical identity.

"Can you believe that once in, we could not pack up and pull out? Do you realize that ILA's hold over MM&P would become in a few years, especially with MM&P officials committed to deliver our Union to the longshoremen?"

The ILA Connection:

The April 1971 issue of The Longshoremen's Voice, official journal of ILA Local 1410 in the Port of Mobile, carried a story on the so-called affiliation with the following headline:

"Longshoremen, Seamen Unions Merge."

And that sums it up. Our AFL-CIO charter is surrendered and we are in the course of being "swallowed up" by the longshoremen.

But that article in the Local 1410 paper tells more of the truth about who is really going to run things, and decide policy, in this merged union.

The article in The Longshoremen's Voice reports it as follows:

"While both Gleason and Capt. O'Callaghan, president of the Masters, Mates and Pilots, said O'Callaghan's 12,500 members would be able to ask for their own contracts and terms, there was no doubt Gleason and his 116,000 longshoremen would have the final say as to any strike."

In other words, it's the dog that wags the tail. And the tail in this merged union is the MM&P.

O'Callaghan Breaks the Law

This special report is sent to you thanks to a Court order, which has resulted from O'Callaghan's violation of the law in sending out his own campaign literature at IOMM&P expense, disguised as a "Convention [illegible] Newsletter."

O'Callaghan broke the law in sending that "newsletter" out and thereby threw the validity of the IOMM&P's election into doubt.

Section 401(g) of the Labor-Management Reporting and Disclosure Act forbids it in plain language. It says that "No moneys received by any labor organization by way of dues, assessment, or similar levy ... shall be contributed or applied to promote the candidacy of any person in a [Union] election.

Use of union moneys for partisan purposes in a union election violates the fiduciary duties of a union officer under Section 501(a) of the same Act and may well constitute a crime under Section 501(c). The latter section makes it a felony punishable by five years in jail or by a fine up to $10,000 or both for a union officer to convert any of the Union's money to his own use or to the use of another. [illegible], when O'Callaghan used the IOMM&P's money to pay for his own campaign literature, he was "converting" that money "to his own use."

THE PHILADELPHIA COURT CASE (Cont'd)

Pennsylvania Court of Common Pleas, Schwartz continually prevented the case from being heard through legal machinations, in the hope of eventually getting the case thrown out. . . . . (Not only were these men illegally expelled without fair trial or hearing, but Weinstein attempted to deny them any fair trial or hearing, even in a civil court.)

WITNESSES ARE RIGGED

Finally, in May 1967, 11 years after the take-over, the case was heard. Faced with trial for which they had no legal defense, Weinstein and Schwartz resorted to illegal tactics. Witnesses for Weinstein were pressured into perjuring themselves; another witness was rigged; Athins, brought in as witness, lied through his teeth.

In May 1969, attorneys for the plaintiffs and defendents met in Judge Bradley's chambers, and determined that the "Philadelphia Twelve" would be reinstated immediately. Said Judge Bradley:

"After studying the record in the above case, together with the requests for Findings of Fact and Conclusions of Law and Briefs in support thereof, I have concluded that the plaintiffs have proven the liability of the defendants in the above case."

Philadelphia Local 2 was dissolved September 26, 1967, by the International Executive Committee and the jurisdiction of Philadelphia was subsequently granted to Local 14 retroactively. That was a Schwartz gimmick to make the take-over look legal. What it did do was make Local 14's jurisdiction of Philadelphia cover the entire period of the 12 members' expulsion during all of which Weinstein was president of Local 14. Let Weinstein, who expelled these 12 men on his own authority and with the consent of the 1966 International Convention, as he admitted, pay for his own rotten deals!

PHILADELPHIA COURT CASE Lawyer Schwartz ran into some difficulties when he tried to raid our Pension Plan to get his clients, the International Officials, OFF-THE-BOOK. Even the Shipowner Trustees couldn't buy that one. They didn't want any part of a deal whereby the MM&P Pension Fund would be milked for part of a union debt the shipowners had nothing to do with. So Schwartz had to go back to the judge and tell HIS HONOR he couldn't deliver what he had promised. Naturally, the judge has to be upset by the DOUBLE TALK. That with HIS HONOR having bent over backwards to accommodate Schwartz so the MM&P Membership couldn't see by the DECREE how much all the gambling of this case is going to cost them ONE WAY OR OTHER. And by 'OTHER' we mean the BIG BUNDLE of side money Schwartz agreed to pay plaintiffs which is not set forth in that PRE-NEGOTIATED DECREE.

Naturally there are some others who have to be taken care of in addition to the plaintiffs. Then there is the compounded legal cost of years of useless defense of the INDEFENSIBLE. The total cost of this thing runs into the millions when you add it all up. And so far the International has not paid out one cent to satisfy the DECREE and SIDE MONEY settlement.

Here is how the deal was reported in the Pension Plan's minutes:

BOARD OF TRUSTEES

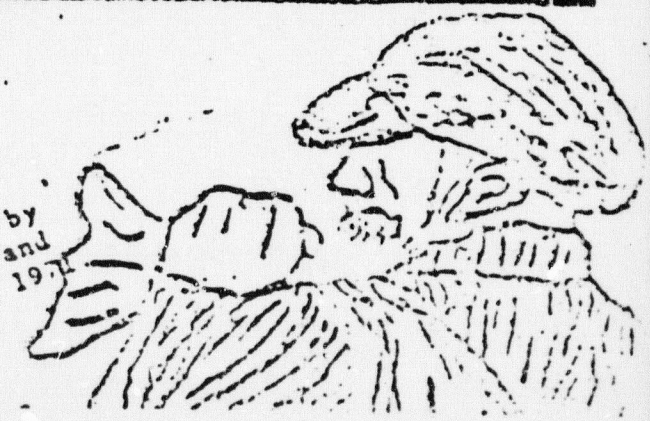
...UTES OF THE SPECIAL MEETI...

MASTERS, MATES AND PILOTS PENSION PLAN

...M.&P.

... item was previously discussed by ... meeting on June 24, 1971, and ...sion Plan on July 6, 197...

... his the ...



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FILED
NOV 5 1971
S. D. OF N. Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LLOYD SHELDON, AMOS KOONCE and
VICTOR SOTO,

Plaintiffs,

71 Civ. 4113

-against-

THOMAS F. O'CALLAGAHAN, as President, etc.,
of International Organization of Masters,
Mates and Pilots, AFL-CIO,

-and-

DONALD B. STRAUS, as President, etc.,
of American Arbitration Association,

Defendants.

MEMORANDUM IN OPPOSITION TO DEFENDANTS'
MOTION FOR RE-ARGUMENT

BURTON H. HALL
Attorney for Plaintiffs
401 Broadway
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431-9114

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LLOYD SHELDON, et al.,

Plaintiffs,

71 Civ. 4113

-against-

THOMAS F. O'CALLAGHAN, as President, etc.,

-and-

DONALD B. STRAUS, as President, etc.,

Defendants.

MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR RE-ARGUMENT

On September 21, 1971, plaintiffs moved the Court, upon all the papers and proceedings herein, for relief in various respects, including "such other and different relief as may be appropriate." One of the papers herein was, and is, the Complaint, which had been duly served upon each of the defendants. In paragraphs NINTH and TENTH thereof, the Complaint sets forth the provision of Local 83's by-laws (Section 5, Article 5) regarding the making available of certified mailing lists to candidates

and the denial of such to plaintiff Soto, as well as Soto's exhaustion of his intra-union appeals.

These facts cannot be seriously challenged. The local's by-laws do in fact contain the provision cited. What is more, that provision -- and several others, setting forth other democratic protections -- were placed in the "new" constitution and by-laws that were adopted in 1961, as a means of protecting membership democracy against racketeer control; this local union and its parent International having, less than two years earlier, been freed from racketeer control, the membership was determined to protect itself in the future by creating genuinely democratic protection against autocracy in the future. And from 1961 onward, the local union and its officers consistently interpreted the constitutional provision in precisely the same way that this Court has interpreted it -- for, indeed, that interpretation was and is exactly what the framers of the constitution intended.

Beginning in 1967, the present rulers of Local 33 took it on themselves to refuse to candidates for office the rights guaranteed by that provision of the constitution and by-laws. Members of Local 33 protested; they appealed at various times to the U.S. Secretary of Labor, who has authority under

Sections 402 and 601 of the Labor-Management Reporting and Disclosure Act of 1959 (or LMRDA), 29 USC 482 and 521, to investigate and act upon violations of union members' electoral rights. And repeatedly, the Secretary ruled that the denial by Local 88 of certified mailing lists to candidates demanding them violated the constitutional provisions of Local 88 and thus violated Section 401(e) of the LMRDA, 29 USC 481(e), which provides that "... the election shall be conducted in accordance with the constitution and by-laws of such organization insofar as they are not inconsistent with the provisions of this Title."

Still, the present officials of Local 88 (or, as it is now titled, the New York Branch of the Offshore Division of the defendant International), refused to recognize the rights of opposition candidates to certified mailing lists. Plaintiff Soto and others appealed to defendant International and to defendant American Arbitration Association, but to no avail; the International refused to accord them their rights and the Arbitration Association refused to look into any disputed questions concerning the election (cf. the AAA's letter of August 31, 1971, appended to the affidavit of plaintiff Sheldon as Exhibit "D" thereof and described in the undersigned's affidavit of September 15, 1971, also appended thereto).

For that reason it became necessary for plaintiffs to seek relief in this Court. 2051a

Defendants concede (page 3, fn. of their memorandum) that "this is not properly the place for argument on the merits." But in the memorandum itself and in letters to the Court, defendant proceeds to do just that. Because defendants have thus opened the door to factual argument, plaintiffs respectfully respond. Plaintiffs point out, however, that the facts set forth below, as being the background of the dispute in question, are beyond any real controversy. They are known to defendants as well as to plaintiffs and are known by them to be true.

1. Background of the Dispute: The Adoption of Local 88's "new" constitution.

Until 1958, both Local 88 and the International were ruled by a racketeer named C.T.Atkins, who held office both as Local 88 President and as President of the International. Atkins ruled with an iron hand, rigging elections and expelling members who criticized him (cf. Madden v. Atkins, 4 N.Y.2d 233 (1958)). He also sold jobs and membership books and betrayed the membership in other ways for his private gain. He was convicted for several of these crimes and sentenced to jail -- and after his conviction removed from office. The union then embarked on an effort at self reform. As the new President of the International, Capt. Durkin, told the delegates at the Interna-

tional's Convention in 1960:

"We must do the necessary and draft the language to include in the Constitution all of these democratic safeguards. In addition, we must decide what course this Union is going to take. Is this Union going to take a course that will make it what the Masters, Mates and Pilots should be?

"The action would indicate here that we have lived with the taint of the only International President in the whole history of the AFL-CIO, to the best of my knowledge, who, while still in the Office of International President, was convicted of crimes against the membership.

"Doyou realize the taint that this has imposed on this Organization for the past 22 months? I have lived with that taint. My immediate predecessor ... lived with that taint in labor circles. And it is not a decent taint. We intend to remove any aspect of that taint that we possibly can; therefore, we are now faced with going forward along that particular line. I consider it a 'must.'"

Capt. Durkin's "must" was a series of constitutional amendments ensuring membership control of all aspects of the union's functioning and for protection of ordinary members: one provided for the International to pay the costs of litigation brought by expelled members against it to recover their lost wages.

Local 83 was imbued with the same "must." The Atkins crowd was thrown out of office by the membership and a new team of reformers, headed by plaintiff Sheldon and Capt. Arthurl Holdeman was elected to office. And, of materiality

here, Local 83 adopted a new constitution and by-laws containing every democratic protection its membership could devise.

Local 88, in fact, went further than the International in its determination to clean house. The International kept many of Atkins's associates in office or on retainer: for example, the attorney for the International under Atkins remained (and still remains) as counsel for the International. Local 88, however, turned over a new leaf in all these respects.

In short, the provision relating to certified mailing lists was one democratic reform among several which ~~which~~ were deliberately adopted by the Local 83 membership in order to protect themselves in the future from racketeer control of their union. It was intended seriously.

2. Background of the Dispute: Interpretation of the Constitutional Provision.

At the time of the adoption of Local 83's "new" constitution and for several years thereafter, Local 83's President was Capt. Holdeman and its Secretary-Treasurer was plaintiff Sheldon. Throughout these early years, and for several years thereafter, there was never a question raised as to the mea-

ning of the constitutional provision in question. Everyone agreed as to what it meant and what it was intended to mean: namely, that every candidate for office in Local 88 had the right to buy, at cost, a certified copy of the Local's accurate and up-to-date mailing list. And this right was frequently exercised. The undersigned has in his possession and will submit to the Court if requested (he has already exhibited it to defendants) just such a certified copy of the mailing list that was furnished by Local 88 to a certain James F. Logan, a candidate for a minor Local office, in 1963. And even in 1965, when new officers of the Local sought to discourage requests for the mailing list, they acknowledged in print -- both in letters to candidates and in the Local 88 Bulletin (its official journal) -- that every candidate had the right to purchase a certified copy of the mailing list at cost.

In 1967, the new officers of the Local began to infringe the candidates' rights, however. Several candidates complained, in 1967 and later, to the Secretary of Labor under the LMRDA. And repeatedly the Secretary ruled that it was a violation of the Local's constitution and by-laws, and thus of the LMRDA itself, for the Local to refuse to sell at cost a copy of the mailing list to a candidate requesting the same.

One Local 33 member (and candidate for office) who appealed to the Secretary was William Sorrentino. After investigating his appeal, Mr. Benjamin Naumoff, Regional Director of the Labor Department's Office of Labor-Management and Welfare-Pension Reports (which performs the Secretary's functions under the LMRDA), made his ruling in a letter of August 14, 1967, addressed to Sorrentino. The ruling quoted Section 401(e) of the LMRDA, quoted also Article 5, Section 5 of Local 83's constitutionn and by-laws, and concluded as follows:

> "Based on this language, it would appear that you, as a bona fide candidate for a constitutional office, are entitled to a certified copy of the eligible membership, unless this section was altered or modified by procedures set forth in the constitution and/or by-laws."

A copy of the August 14, 1967 letter from Naumoff to Sorrentino is appended to this memorandum.

Another Local 33 member and candidate who appealed to the Secretary was plaintiff Victor Soto. By letter of July 15, 1970, the National Director of the Labor Department's Office of Labor-Management, etc., Reports wrote to Soto, reporting that the Department had conducted an investigation pursuant to Section 601 of the LMRDA, 29 USC 521, and had found, inter alia, as follows:

> "In violation of its own constitution and by-laws Local 33 ... did not provide a copy of the member-

Ship list to you (although this was not discriminatory)."

In short, the Labor Department ruled that refusal of the local union to provide a meembership list at cost to a candidate constitutes a violation of Local 88's constitution and by-laws and hence of the LMRDA -- even though such refusal be non-discriminatory as between different candidates.*

Following receipt by Sorrentino of the August 14, 1967 letter, protest was made by him and other candidates (in particular, by Capt. Holdeman who was at that time a candidate for office) to the International and to the

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* The July 15, 1970 letter was produced by plaintiff Soto at a hearing before defendant International's International Ballot Committee on August 30, 1971, at the offices of defendant Arbitration Association, and introduced as an exhibit in that hearing. The letter was taken by the International's counsel upon his promise to make photocopies and return it, making copies available to each participant along with the transcript. This was never in fact done. Theletter therefore remains in the possession of defendant International's counsel. But for that, a copy would be appended to this memorandum.

defendant Arbitration Association, both as regards their demands for certified mailing lists and for their protests concerning other aspects of the electinn procedure then being followed in the Local 38 election supervised by the AAA. A conference was held and, at Holdeman's ansistence, a transcript taken. The tanscript records that Holdeman was asked to agree to submit the question of certified mailing lists to an arbitral decision but that he (and other candidates) refused to do so. Nevertheless, a certain Israel Ben Scheiber, who was performing some functbns in regard to the electinn on behalf of Local 38 and/or the Arbitration Association, proceeded to write an opinion on the question, rejecting the demand for provision of mailing lists to candidates. It must be emphasised, however, that this opinion and whatever else was done by Mr. Scheiber was not an arbitration; there was never, at any time, any arbitral hearing and there was never, at any time, any submission or agreement to be bound on the part of any candidate demanding a mailinglist.

It is this Scheiber opinion on which defendants now principally relys. The answer to their assertions regarding it is that the Scheiber document is nothing but a self-serving statement made by defendants or for defendants, on their own behalf.

-POINT I.

THERE IS NO NEED FOR ANOTHER HEARING ON THE QUESTION OF A CANDIDANTE'S RIGHT TO A CERTIFIED MAILING LIST.

In a series of letters, and also in its memorandum on this motion, defendant International has said what little can be said for its position in regard to the right of candidates to certified copies of the Local 88 mailing list. Its arguments are summarized under Point II of its memorandum, pp. 5-6; what they amount to are simply that in 1967 Mr. Scheiber wrote what purports to be an arbitral determination of sum e sort and that in 1969 no copies of the mailing list were given to candidates. Since defendant has also submitted a copy of Mr. Scheiber's determination or opinion to the Court, and has written the Court letters describing it, it would appear to have said all that it is prepared to say on the question.

The facts set forth supra, as "Background of the Dispute," are essentially beyond controversy. While the interpretation given them above could, of course, be challenged by defendants the facts themselves cannot be; defendant, moreover, is every bit as aware of them as re plaintiffs. In short, there is no real dispute as to the facts.

What is evident, therefore, is:

(i) The Local 88 Constitution in plain and clear terms provides that the local shall make available to candidates, at cost, the certified mailing lists;

(ii) The intention of that provision is clearly demonstrated by the fact that everyone in Local 88 (including Mr. Frank Scavo, the present Secretary-Treasurer) understood and interpreted it to mean that any candidate could obtain a copy of the list on demand by paying the cost of reproducing it -- and acted accordingly during the first six years the new constitution was in effect;

(iii) The Secretary of Labor, who has authority under the LMRDA to do so, has ruled that the constitutional provision means exactly what it appears to mean and what this Court interpreted it to mean -- and has repeated that ruling in 1970, three years after the supposed "arbitration" of Mr. Scheiber;

(iv) In 1967, Local 88's new officers first began to refuse to recognize the rights of candidates to copies of the mailing list and were spported in their refusal by Mr. Scheiber -- but Mr. Scheiber's opinion was not in fact an arbitration, nor was the matter ever arbitrated by or before him.

On these facts it would therefore seem more than evi-

that this Court's decision stands in no need of reargument.

Defendant has already made its offer of prove. Under point two of its memorandum on this (reargument) motion, it has stated in summary form what it offers to prove upon a fuller motion; moreover, in connection with letters submitted to the Court, it has actually produced the material in question. It is therefore easy to weigh the offer of proof and determine its adequacy -- or, in this instance, its inadequacy. For the offer states only two facts: the Schiber opinion or statement (which has itself already been submitted) and the fact that in 1969 the officers of Local 88 once again refused to recognize the rights of candidates to copies of the mailing lists. (The letter to Soto from Mr. Lurie, the head of the Labor Department's Labor-Management Reports Office, described above, establishes that this refusal, in connection with the 1969 election, was a violation of law.)

In short, defendant, by its offer, has failed to assert or show facts justifing reargument: for admitting them as facts and giving them the most favorable interpretation, it is impossible to say that they affect the correctness of the Court's determination. Defendant having failed to make an adequate offer of proof, an adequate statement of facts it hopes to prove, its motion for reargument should

be denied.

CONCLUSION

Defendant International's motion for re-argument should be denied.

Respectfully Submitted,

BURTON H. HALL
Attorney for Plaintiffs

International Ballot Committee

✦ Election Report ✦

January 22, 1975

TO:

Captain Robert J. Lowen
International Secretary-Treasurer
International Organization of Masters, Mates & Pilots
39 Broadway, New York, New York 10006

FROM:

International Ballot Committee

Dear Sir and Brother:

American Arbitration Association, the impartial balloting Agency selected by the 62nd International Convention, through Rene Grafals, Election Administrator, has this date delivered the certification of results of the 1974 Election of International Organization of Masters, Mates & Pilots International Officers, Offshore Division Officers and Pilot Division Officers, copies enclosed.

The International Ballot Committee now certifies that the election was conducted in accordance with the International Constitution as provided by Article V, Section 6 thereto.

Further, to the Ballot Committee certification, no candidate for the Office of International President received forty (40%) percent of the valid ballots counted.

Thus, in accordance with the provisions of Article V, Section 3 of the International Constitution a run-off election for the Office of International President is necessary between the following candidates:

FRANK T. SCAVO
THOMAS F. O'CALAGHAN

Likewise, no candidate for the Office of International Executive Vice-President received forty (40%) percent of the valid ballots counted.

Thus, in accordance with the provisions of Article V, Section 3 of the International Constitution a run-off election for the Office of International Executive Vice President is necessary between the following candidates:

WILLIAM M. CALDWELL
GERALD L. (JERRY-JOHNSON)

Robert J. Lowen, candidate for the office of International Secretary-Treasurer received at least forty (40%) percent of the valid ballots counted and is hereby declared elected.

In accordance with the decision of the International Ballot Committee — sustained on appeal by Arbitrator Benton Turban, of the American Arbitration Association, the following candidates are declared elected for the respective office:

NEW YORK PORT AGENT
VICE-PRESIDENT — ATLANTIC
(and Convention Delegate by virtue of office)

CHARLES A. HEMMINNG

GALVESTON PORT AGENT
VICE-PRESIDENT — GULF
(and Convention Delegate by virtue of office)

ARTHUR HOLDEMAN

SAN FRANCISCO PORT AGENT
VICE-PRESIDENT — GULF
(and Convention Delegate by virtue of office)

S ORION (BILL) LARSON

Offshore Division

New England Area — Port Agent (Boston)
S DAVID B. McLEAN
New England Area — Asst. Port Agent (Providence)
S JAMES J. BRADY
New York — Executive Assistant Port Agent
H. L. NEREAUX
New York — Assistant Port Agent
ERNEST K. SWANSON
New York — Assistant Port Agent
S ROBERT P. THOMPSON
New York — Assistant Port Agent
AMOS E. EGONCE
New York — Assistant Port Agent
S EDWARD GRAS
Philadelphia — Assistant Port Agent
S CHARLES E. JESS
Baltimore — Port Agent
JAMES T. HOPKINS
Baltimore — Assistant Port Agent
S CHARLES M. SNOW
Baltimore — Assistant Port Agent
S HERBERT J. MOHR
Norfolk — Port Agent
EDWARD W. SIMMONS
Norfolk — Assistant Port Agent
S MARTIN E. PECIL
Jacksonville — Port Agent
S ALLEN C. SCOTT
Mobile — Port Agent
WALTER J. ANDERSON
New Orleans — Port Agent
S RICHARD M. CASSELBERRY, JR.
New Orleans — Assistant Port Agent
MICHAEL E. PSCENICKA
New Orleans — Assistant Port Agent
S JOSE MORALES
New Orleans — Assistant Port Agent
JOHN M. SMITH
Houston — Port Agent
PAUL S. WILKINS
Houston — Assistant Port Agent
S THOMAS O. NEUMANN
Houston — Assistant Port Agent
THOMAS L. GUNTER
Galveston — Assistant Port Agent
ROBERT P. WAGNER
Wilmington — Port Agent
FRANK BURKE
Wilmington — Assistant Port Agent
S NICK BARBARA
San Francisco — Executive Assistant Port Agent
WILLIAM P. WHITE
San Francisco — Assistant Port Agent
RICHARD BARA
San Francisco — Assistant Port Agent
S LLOYD M. MARTIN
San Francisco — Assistant Port Agent
S DAVID P. YORK
Portland — Port Agent
JAMES HAVERFIELD
Seattle — Port Agent
S RUPERT I. SORIANO *

CONVENTION DELEGATES

FRANK T. SCAVO
H. L. NEREAUX
RICHARD BARA
AMOS E. EGONCE
NICHOLAS BARBARA
RUPERT I. SORIANO
RICHARD J. POLACHEK
VIRGIL G. VALENTINE
WILLIAM M. CALDWELL
LLOYD MARTIN
ROBERT I. LOWEN
ROBERT N. POLUMBO
GEORGE M. TUTTLE
RICHARD M. CASSELBERRY
EDWARD M. CALDWELL
VICTOR SOTO
*ARTHUR L. HOLDSMAN
MARTIN E. PECIL
FRANCIS E. KYSER
JAMES HAVERFIELD
WILLIAM K. BEACH
MICHAEL E. PSCENICKA
ALLEN C. SCOTT

ALTERNATE CONVENTION DELEGATES

GEORGE PEDERSEN
CHARLES GEDNEY
JOHN H. MORIN
RICHARD J. MOORE
ERIC S. HAYES
HARRY WALTON
JOHN HARING
EARL VESSEY
STEPHEN C. FARNUM
HENRY CARL WALTHER
O. R. JORGENSON
ERWIN FITZE

* Arthur L. Holdsman is a Delegate by virtue of his office as Galveston Port Agent — Vice President (Gulf).

INTERNATIONAL CONSTITUTION AMENDMENT

YES — 3609
NO — 1062
CARRIED

Pilots Division Officers

Vice-President	ROBERT D. ELSENSOHN
East Coast Representative	ROBERT A. DEANE
Gulf Coast Representative	LOUIS E. MILLER
West Coast Representative	DONALD S. GRANT
Great Lakes Representative	ALBERT E. FRACCARO

PROPOSITION No. 1
YES — 405
NO — 7
CARRIED

PROPOSITION No. 2
YES — 388
NO — 20
CARRIED

PROPOSITION No. 3
YES — 408
NO — 4
CARRIED

PROPOSITION No. 4
YES — 393
NO — 16
CARRIED

PROPOSITION No. 5
YES — 365
NO — 25
CARRIED

PROPOSITION No. 6
YES — 379
NO — 14
CARRIED

PROPOSITION No. 7
YES — 365
NO — 27
CARRIED

HEALTH PLAN RESOLUTION
YES — 344
NO — 33
CARRIED

The Committee requests your assistance in arranging the appropriate communications to all winning candidates and subordinate bodies as required by the International Constitution and your good judgement.

The Ballot Committee has been functioning in New York continuously since December 27, 1974. As a result, the Committee has been compelled to postpone undertaken business and personal matters. A recess of two weeks is in order leaving ample time to perform the Committee's duties with regard to the run-off election if such proves necessary.

Fraternally,

S/ ROBERT E. DURKIN, Chairman
S/ GEORGE V. EISENHAUER
S/ S. K. SPRADA
S/ EDWARD C. HAYES
S/ FLOYD E. SMITH, Secretary

* The union neglected to note the winner for the Port Agent of Port Arthur (Nederland) in this listing. As taken from Page 9 of this same issue of the Master Mate and Pilot, annexed hereto, we note that Ford Dunnigan won that position. He was not an O'Callaghan slate member.

S - Identifies O'Callaghan Slate Member (as noted from the Election Supplement edition of "Master Mate & Pilot" newspaper wherein said members are identified by the slogan "For Continued MM&P Progress, Prosperity and Strength Vote For The O'Callaghan Team" - Exh. J to the Appendix)

ELECTION REPORT 2063a

(Continued from Page 8)

OFFSHORE DIVISION

NEW YORK PORT AGENT

Vice-President—Atlantic

CHARLES N. HENNING	595
JOSEPH B. GAIER	1,659
CHARLES A. HEMMING	1,750
Blank	210
Void	2

GALVESTON PORT AGENT

Vice-President—Gulf

LEONARD L. GAUSE	1,177
ROBERT L. JONES	1,388
ARTHUR HOLDEMAN	1,394
Blank	253
Void	4

SAN FRANCISCO PORT AGENT

Vice-President—Pacific

JACK OFLET, JR.	906
VIRGIL G. VALENTINE	1,514
ORION (BILL) LARSON	1,571
Blank	225
Void	0

NEW ENGLAND AREA

PORT AGENT (BOSTON)

VINCENT M. FREDERICO	155
FREDERICK S. LAIRD	260
FRANK C. FLAHERTY	483
JOHN ROSAND	835
DAVID A. McLEAN	1,275
CHARLES J. LANDRY	451
ANTHONY J. BELMONTE	185
ANDREW G. OUGHELTREE	167
Blank	401
Void	4

NEW ENGLAND AREA

Assistant Port Agent (Providence)

WILLIAM J. McLAUGHLIN	231
GEORGE E. LANDRIGAN	152
WILLIAM P. O'BRIEN	407
LEO SKEVNICK	767
VINCENT J. YAKAVONIS	565
MALCOLM A. MacDONALD	196
MILTON A. ANDREWS	141
JOHN P. HEMMALIN	159
JAMES J. BRADY	1,112
JOSEPH DeVICO	114
Blank	364
Void	8

NEW YORK

Executive Assistant Port Agent

RICHARD J. POLACHEK	1,532
G. N. HALEBLIAN	887
H. L. NEREAUX	1,588
Blank	207
Void	2

NEW YORK

Assistant Port Agent

LAWRENCE A. BURLINGAME	1,328
EDWARD GRAS	1,514
ROBERT A. LIDDY	980
FRANK RANDOMSKI	1,238
JOSEPH A. STANELY	1,413
VICTOR SOTO	1,195
FRANCO MORALES	819
WILLIAM R. SORRENTINO	881
ERNEST K. SWANSON	1,824
AMOS E. KOONCE	1,521
ROBERT P. THOMPSON	1,693
Blank	218
Void	5

PHILADELPHIA

Assistant Port Agent

CYRIL J. ELIAS	1,160
CHARLES SUNDERLAND	548
PHILIP VECCHIONE	884
CHARLES E. JESS	1,329
Blank	289
Void	6

BALTIMORE PORT AGENT

JAMES H. HOPKINS	2,837
MORRIS WEINSTEIN	1,203
Blank	174
Void	2

BALTIMORE

Assistant Port Agent

HERBERT J. MOHR	1,662
JOHN Q. CONRAD	1,215
MARTIN L. SCHULTZ	1,328
CHARLES M. SNOW	1,692
WILLIE R. RAY	1,187
Blank	254
Void	5

NORFOLK PORT AGENT

WILLIAM K. BEACH	1,509
JACOB SPIEGEL	193
EDWARD W. SIMMONS	2,244
Blank	268
Void	2

NORFOLK

Assistant Port Agent

MARTIN E. PECIL	3,125
Blank	1,084
Void	7

JACKSONVILLE PORT AGENT

MARION C. N. WELLS	699
JULIAN C. ALLEN	336
ALLEN C. SCOTT	1,331
OWEN R. LEWIS	199
E. C. BAKER	309
CHARLES O. NORSTRAND	1,041
Blank	286
Void	15

MOBILE PORT AGENT

FRANCIS E. KYSER	1,450
WALTER J. ANDERSON	2,336
Blank	420
Void	10

NEW ORLEANS PORT AGENT

N. L. LaROCCA	708
CORNELIUS F. COYLE	1,467
RICHARD M. CASSELBERRY, JR.	1,686
Blank	353
Void	2

NEW ORLEANS

Assistant Port Agent

CLAUDE PARHAM	1,464
MICHAEL E. PSCENICKA	1,783
A. REID, JR.	1,484
MANFRED OSBORN	432
NORMAN H. FISCHER	809
LEON J. MAAS, JR.	579
HERMAN DEAN HILLMAN	804
JOHN M. SMITH	1,498
JOSE MORALES	1,591
MILTON H. GONZALES	396
Blank	305
Void	8

PORT ARTHUR (Nederland)

PORT AGENT

FORD CUMMINGS	1,552
JAMES R. GIBLIN	1,477
CHARLES P. GAINES	732
Blank	419
Void	6

HOUSTON PORT AGENT

ROBERTO N. POLUMBO	1,492
PAUL S. WILKINS	2,463
Blank	260
Void	1

HOUSTON

Assistant Port Agent

DAVID HAA	1,132
THOMAS D. NEUMANN	1,770
CLYDE J. SMITH	1,435
RAYMOND E. MASSEY	503
JACK W. RAIMOND	321
THOMAS L. GUNTER	1,551
SAMUEL P. KNOX	429
DONALD J. SCHNEIDER	181
THOMAS L. SCHNEIDER	125
Blank	291
Void	24

GALVESTON

Assistant Port Agent

ROBERT F. WAGNER	1,657
PAUL D. HERMANN, JR.	1,457
NEROD F. HALL	687
Blank	411
Void	4

WILMINGTON PORT AGENT

GEORGE VALENTINE	781
HENRY C. WALTHER	1,534
FRANK BURKE	1,603
Blank	297
Void	0

WILMINGTON

Assistant Port Agent

NICK BARBARA	3,298
Blank	916
Void	2

(Continued on Page 22)

Exhibit P

AMERICAN ARBITRATION ASSOCIATION, ADMINISTRATOR

2064a

ELECTION DEPARTMENT

In The Matter Of The Election INTERNATIONAL ORGANIZATION OF THE MASTERS, MATES AND PILOTS 13 50 0039 74	CERTIFICATION OF RESULTS

Pursuant to a letter-agreement signed September 19, 1974 by Captain Robert J. Lowen, International Secretary-Treasurer of the International Organization of Masters, Mates and Pilots, hereinafter referred to as the Union, the American Arbitration Association, hereinafter referred to as the Administrator, agreed to conduct the Union's 1974 Officers' Election. This election was conducted in conformity with the Constitution and By-Laws of the Union pursuant to the Administrator's Election Rules.

The ballots were prepared under the supervision of the Administrator and the direction of the International Ballot Committee.

Eligibility to vote was determined from lists provided for that purpose to the Administrator by the Union.

To be valid, envelopes had to be either postmarked by midnight, December 24, 1974 or receive a ruling to be counted by the International Ballot Committee and/or the undersigned.

The Administrator, in accordance with its election rules, designated the undersigned to supervise and preside over the Election and to issue a certification of the results.

The counting of the ballots took place from January 8 through January 10, 1975 at the Victorian Ballroom of the Abbey-Victoria Hotel, located at 151 West 51 Street, New York, New York 10019.

A recount of the Offshore Division was conducted on January 18, 1975 at the offices of the Administrator, located at 140 West 51 Street, New York, New York 10020.

Both counts were administered under the supervision of the International Ballot Committee and the undersigned in the presence of candidates, attorneys and observers. Five Thousand Five Hundred (5,500) envelopes were received by the administrator.

11 . Local 27 - Inland Division
108 Local 30 - Inland Division
277 Inland Division - West Coast & Pacific Region
389 Inland Division - Atlantic & Gulf Inland Region
434 Pilots Division
4281 Offshore Division

Ninety-six (96) were neither opened nor counted for the following reasons:

Local 27 - Inland Division

0 Invalid ballots

Local 30 - Inland Division

2 Withdrawn from Union

Inland Division - West Coast and Pacific Region

1 Duplicate ballot
2 Name not on list

Inland Division - Atlantic and Gulf Inland Region

1 Duplicate ballot
5 Name not on list
1 No identification on envelope
6 Issued to one - returned by different voter
11 Suspended from Union
1 No address on envelope
2 Ballots sent to Florida P.O. Box
1 Ballot sent to towing company

Pilots Division

1 Duplicate ballot
1 Resigned from Union
4 No identification on envelope

Offshore Division

4 Duplicate ballots
3 Name not on list
5 No identification on envelope
10 Issued to one - returned by different voter
1 Suspended from Union
7 No signature
4 Ballots sent to Union office
23 Late post-mark

Secrecy of the ballot was maintained at all times.

Results are certified to be as follows:

2066a

	Local 27 Inland	Local 30 Inland	Inland West Coast	Inland East Coast	Pilots Div.	Offshore Div.	Total
Ballots Counted	11	106	274	361	428	4224*	5404
INTERNATIONAL PRESIDENT							
Patrick J. King	1	13	7	14	16	257	308
Frank T. Scavo	4	73	138	22	78	1797	2112
Phillip N. Schmidt	1	1	37	1	5	152	197
Harry Friedman	1	3	22	18	16	577	637
Thomas O'Callaghan	4	15	62	302	300	1241	1924
Everett F. Hall	0	1	1	1	3	126	132
Blank	0	0	1	1	6	45	53
Void	0	0	6	2	4	21	33
INTERNATIONAL EXECUTIVE VICE PRESIDENT							
George Vance	2	4	37	11	18	619	691
William M. Caldwell	4	17	67	307	289	1366	2050
Gerald L. Johnson	5	78	137	26	92	1696	2034
Robert B. Wright	0	7	30	10	17	434	498
Blank	0	0	1	5	11	87	104
Void	0	0	2	2	1	14	19
INTERNATIONAL SECRETARY-TREASURER							
John R. Seybert	2	3	32	19	24	771	851
Robert J. Lowen	5	24	77	305	302	1578	2291
Timothy A. Brown	4	79	151	30	89	1765	2118
Blank	0	0	13	7	13	100	133
Void	0	0	1	0	0	2	3
INTERNATIONAL CONSTITUTION AMENDMENT							
Yes	9	81	217	310	356	2726	3699
No	1	12	33	8	29	959	1042
Blank	1	13	24	43	43	529	653
Void	0	0	0	0	0	2	2

*Eight (8) ballots were signed by the voter therefore declared invalid.

D

Pilots Division

Vice President

Robert D. Elsensohn	308
Blank	120
Void	0

East Coast Representative

Robert A. Deane	332
Blank	96
Void	0

Gulf Coast Representative

Louis E. Miller	300
Blank	128
Void	0

West Coast Representative

Donald S. Grant	293
Blank	134
Void	1

Great Lakes Representative

Albert E. Fraccaro	259
Blank	169
Void	0

Proposition No. 1

Yes	405
No	7
Blank	16
Void	0

Proposition No. 2

Yes	388
No	20
Blank	20
Void	0

Proposition No. 3

Yes	408
No	4
Blank	16
Void	0

Proposition No. 4

Yes	393
No	16
Blank	19
Void	0

Proposition No. 5

Yes	365
No	25
Blank	37
Void	1

Proposition No. 6

Yes	379
No	14
Blank	33
Void	0

Proposition No. 7

Yes	365
No	27
Blank	36
Void	0

Health Plan Resolution

Approved	344
Not Approved	33
Blank	51
Void	0

Offshore Division

New York Port Agent Vice President - Atlantic

Charles N. Henning	595
Joseph B. Gaier	1659
Charles A. Hemming	1750
Blank	210
Void	2

Galveston Port Agent Vice President - Gulf

Leonard L. Gause	1177
Robert L. Jones	1388
Arthur Holdeman	1394
Blank	253
Void	4

San Francisco Port Agent Vice President - Pacific

Jack Oflet, Jr.	906
Virgil G. Valentine	1514
Orion (Bill) Larson	1571
Blank	225
Void	0

New England Area - Port Agent (Boston)

Vincent M. Frederico	155
Frederick S. Laird	260
Frank C. Flaherty	483
John Rosand	835
David A. McLean	1275
Charles J. Landry	451
Anthony J. Belmonte	185
Andrew G. Ougholtree	167
Blank	401
Void	4

New England Area - Assistant Port Agent (Providence)

William J. McLaughlin	231
George E. Landrigan	152
William F. O'Brien	407
Leo Skevnick	767
Vincent J. Yakavonis	565
Malcolm A. MacDonald	196
Milton A. Andrews	141
John P. Hemmalin	159
James J. Brady	1112
Joseph DeVico	114
Blank	304
Void	8

New York - Executive Assistant Port Agent

Richard J. Polachek	1532
G. N. Haleblian	887
H. L. Nereaux	1588
Blank	207
Void	2

New York - Assistant Port Agent

Lawrence A. Burlingame	1328
Edward Gras	1514
Robert A. Liddy	980
Frank Randomski	1238
Joseph A. Stanely	1413
Victor Soto	1195
Franco Morales	819
William R. Sorrentino	881
Ernest K. Swanson	1824
Amos E. Koonce	1521
Robert P. Thompson	1693
Blank	218
Void	5

Philadelphia - Assistant Port Agent

Cyril J. Elias	1160
Charles Sunderland	548
Philip Vecchione	884
Charles E. Jess	1329
Blank	289
Void	6

Baltimore - Port Agent

James T. Hopkins	2837
Morris Weinstein	1203
Blank	174
Void	2

Baltimore - Assistant Port Agent

Herbert J. Mohr	1662
John Q. Conrad	1215
Martin L. Schultz	1328
Charles M. Snow	1692
Willie R. Ray	1187
Blank	254
Void	5

Norfolk - Port Agent

William K. Beach	1509
Jacob Spiegel	193
Edward W. Simmons	2244
Blank	268
Void	2

Norfolk - Assistant Port Agent

Martin E. Pecil	3125
Blank	1064
Void	7

Jacksonville - Port Agent

Marion C. N. Wells	699
Julian C. Allen	336
Allen C. Scott	1331
Owen R. Lewis	199
E. C. Baker	309
Charles O. Norstrand	1041
Blank	286
Void	15

Mobile - Port Agent

Francis E. Kyser	1450
Walter J. Anderson	2336
Blank	420
Void	10

New Orleans - Port Agent

N. L. LaRocca	708
Cornelius F. Coyle	1467
Richard M. Casselberry, Jr.	1686
Blank	353
Void	2

New Orleans - Assistant Port Agent

Claude Parham	1464
Michael E. Pscenicka	1783
A. Reid, Jr.	1484
Manfred Osborn	432
Norman H. Fischer	809
Leon J. Maas, Sr.	579
Herman Dean Hillman	804
John M. Smith	1498
Jose Morales	1591
Milton H. Gonzales	395
Blank	305
Void	8

Port Arthur (Nederland)

Ford. Cummings	1552
James R. Giblin	1477
Charles P. Gaines	732
Blank	449
Void	6

Houston - Port Agent

Robert N. Polumbo	1492
Paul S. Wilkins	2463
Blank	260
Void	1

Houston - Assistant Port Agent

David Haa	1132
Thomas D. Neumann	1770
Clyde J. Smith	1[illegible]5
Raymond E. Massey	503
Jack W. Raimond	321
Thomas L. Gunter	1551
Samuel P. Knox	429
Donald J. Schneider	181
Thomas L. Schneider	125
Blank	291
Void	24

Galveston - Assistant Port Agent

Robert F. Wagner	1657
Paul D. Hermahn, Jr.	1457
Nerod F. Hall	687
Blank	411
Void	4

Wilmington - Port Agent

George Valentine	781
Henry C. Walther	1534
Frank Burke	1603
Blank	298
Void	0

Wilmington - Assistant Port Agent

Nick Barbara	3298
Blank	916
Void	2

San Francisco - Executive Assistant Port Agent

George M. Tuttle	1725
William F. White	2190
Blank	301
Void	0

San Francisco - Assistant Port Agent

Michael Kay	1515
John B. Admire	1177
Edward M. Caldwell	1809
David F. York	2076
Lloyd Martin	2192
Richard Bara	2210
Blank	240
Void	3

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Portland - Port Agent

James Haverfield	2033
Charles W. Wallace	1899
Blank	271
Void	13

Seattle - Port Agent

Frank Cain	634
Florin Dente	1037
Rupert J. Soriano	1021
Ray Steward Armitstead	666
Blank	250
Void	8

Convention Delegates

Norman H. Fischer	506
David A. McLean	1092
Thomas K. Earle	206
Amos E. Koonce	1572
George E. Landrigan	244
Orion A. Larson	1038
Jose Morales	873
Joseph Wesley	242
John Q. Conrad	554
Philip Vecchione	643
Vincent J. Yakavonis	606
Julian C. Allen	398
N. L. LaRocca	648
Joseph A. Stanley	686
William M. Caldwell	1387
John Haring	217
William K. Beach	1224
Francis E. Kyser	1243
James Joseph Brady	891
Victor Soto	1274
Florin Dente	1066
Andrew G. Ougheltree	279
Marion C. N. Wells	538
William R. Sorrentino	880
Cornelius F. Coyle	929
Edward M. Caldwell	1285
Edward W. Simmons	1032
George Vance	986
Leon J. Maas, Sr.	505
Rupert J. Soriano	1511
Arthur L. Holdeman	1262
Robert N. Polumbo	1335
Martin E. Pecil	1258
Charles H. Jess	1011
Frank C. Flaherty	479
Paul D. Hermann	442
Henry C. Walther	1128
Claude Parham	547
Milton H. Gonzales	358
Ernest K. Swanson	1045
Robert A. Liddy	761
Virgil G. Valentine	1411

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James R. Giblin	1062
Daniel F. Kennedy	286
Julian Platon, Jr.	206
Frederick S. Laird	262
Tom Gunter	978
Michael E. Pscenicka	1213
John M. Smith	755
Lloyd Martin	1365
Richard A. Cahill	785
George M. Tuttle	1331
Charles Henning	703
Bernard O'Hagan	398
Allen C. Scott	1163
Richard G. Connelly	777
David F. York	774
Jacob Spiegel	185
Jack W. Raimond	222
James Haverfield	1235
Manfred Osborn	249
Frank T. Scavo	2083
Ford Cummings	628
James T. Russel	143
Frank Burke	1093
Owen R. Lewis	152
Morris Weinstein	1081
A. Reid, Jr.	516
H. L. Nereaux	1694
Charles Wallace	1085
Clyde J. Smith	441
Frank R. Cain	457
Nickolas Barbara	1537
Walter J. Anderson	1130
Robert J. Lowen	1362
Thomas D. Neumann	928
Richard J. Polachek	1427
Paul Wilkins	747
Richard Bara	1503
J. R. Silver	759
Charles M. Snow	1015
Richard M. Casselberry	1304
Leo Skevnick	654
Lawrence A. Burlingame	1076
Cecil G. Austin	150
Neil H. Lambert	666
John Rosand	572
Frederick Jacobsen	634
Herman Dean Hillman	635
Blank	314
Void	105

Alternate Convention Delegates

Stephen C. Farnum	618
Erwin Fitze	206
Charles Gedney	717
John Haring	644
Eric S. Hayes	682
O. R. Jorgenson	377
Richard J. Moore	703
John H. Morin	706

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George Pedersen	727
Earle Vessey	641
Henry Carl Walther	385
Harry Walton	675
Blank	2572
Void	0

Burton B. Turkus

BURTON B. TURKUS, ARBITRATOR

DATED: JANUARY 22, 1975
STATE OF NEW YORK) ss.:
COUNTY OF NEW YORK)

On this 22nd day of January, 1975, before me personally came and appeared Burton B. Turkus, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

Claire Hellerstein

CLAIRE HELLERSTEIN
Notary Public, State of New York
No. 24-1749060
Qualified in Kings County
Commission Expires March 30, 1976

J.

2075a

MASTER, MATE PILOT

INTERNATIONAL MARINE DIVISION OF ILA/AFL-CIO

I.L.A.

VOL. XII, No. 6 | ELECTION SUPPLEMENT | SEPTEMBER, 1974

SPECIAL 1974 MM&P ELECTION SUPPLEMENT

INTERNATIONAL BALLOT COMMITTEE

The election of International Officers, Offshore Division Officers and Pilots Division Officers is being conducted by the American Arbitration Association under the supervision of the International Ballot Committee elected at the 62rd Convention at the Maritime Institute of Technology and Graduate Studies, Baltimore, Maryland on August 21, 1974. The members of the International Ballot Committee are:

R. E. Durkin, Chairman
Floyd Smith, Secretary
E. C. Hayes
S. K. Sprada

Any inquiries to the Committee should be directed to the Chairman at the International Organization of Masters, Mates and Pilots, 39 Broadway, New York, New York 10006.

HOW TO OBTAIN A DUPLICATE BALLOT IF YOU FAIL TO RECEIVE THE ORIGINAL

Any member who does not receive a ballot for the election of Officers, may obtain a postage-paid, pre-addressed Duplicate Ballot Request postal card from any office of the Organization. The request will be processed by the impartial balloting agency which is conducting the election—the American Arbitration Association.

If you wish a duplicate ballot because the ballot (or return envelope) you received has been mutilated, or you have erased a selection, etc. you should return the invalid ballot with your request for a duplicate.

EXCERPTS FROM INTERNATIONAL CONSTITUTION ELECTION PROCEDURES

ARTICLE V, SECTION 3

Section 3. Election of Officers and Terms of Office

The International President, the International Executive Vice President, and the International Secretary-Treasurer shall be elected by a plurality vote of the general membership in each election, provided the winning candidate receives at least forty (40%) percent of the valid ballots counted. Voting shall be by secret ballot and conducted by an impartial balloting agency selected by a majority pro rata vote of the International Convention.

If a run-off election is necessary it shall be between the two candidates receiving the highest vote. If one of the two candidates in a run-off election declines to run, the other candidate shall be deemed elected for said International office. The International Ballot Committee, the Impartial Balloting Agency, and the balloting procedures shall be the same is in the original election. The original list of eligible voters, with deletion of members who are no longer in good standings shall be used for the mailing of ballots. No other proposition may be placed on the ballot and the balloting shall commence forthwith but in no event later than thirty (30) days following the certification

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Constitutional Election Procedures—

(Continued from preceding Page)

of the results of the election.

Unless legally removed, all elective International Officers shall hold their respective offices for a term of three (3) years, or until their successors are duly elected and installed.

ARTICLE V, SECTION 8

Section 8. Balloting Procedure

a) The Impartial Balloting Agency shall send out sufficient sample official ballots to each subordinate body of the Organization and each such ballot shall later bear the names of all candidates who have been nominated and who shall have notified the International Secretary-Treasurer of their acceptance of such nomination. The form of the official ballot of all subordinate bodies shall be identical in nature and stamped across the body of the ballot "SAMPLE."

b) The ballot shall be enclosed in an envelope which shall have only the following printed thereon: SECRET BALLOT.

The SECRET BALLOT envelope shall be enclosed in an outer envelope which shall have the following information completed by the member in the upper left hand corner: his printed name and address, his subordinate body and book number, and his signature. This envelope shall be pre-stamped and self-addressed to the Impartial Balloting Agency, c/o Safe Deposit Vault which shall be located in the city in which the headquarters of the Organization is located, to be kept for tabulation and certification purposes.

c) The Impartial Balloting Agency shall be responsible for making all arrangements for such Safe Deposit Vault and for the placing therein of the locked and sealed ballot box of the Organization. All such arrangements shall be subject to the approval of the International Ballot Committee. The Impartial Balloting Agency shall retain in its possession the keys to the locked and sealed ballot box until the election results have been certified by the Impartial Balloting Agency.

d) Immediately following the tenth day after the close of the nominating period, the Impartial Balloting Agency under the supervision of the International Ballot Committee shall prepare the official ballot and shall mail one such ballot to each member of the Organization who has not been suspended for non-payment of dues at the time the ballots are mailed out. All ballots shall be mailed not later than the thirtieth day following the close of the nominating period at which nominations have been made.

e) In any case where a member has listed an office of the Organization or care of an official of the Organization as his last known address, the Impartial Balloting Agency shall mail a notice to such member at that address informing such member of the means by which he can obtain his ballot. The Impartial Balloting Agency shall not send any ballot to an office of the Organization nor in care of an official thereof except the official's own ballot to his own home.

f) The International Ballot shall be officially closed ninety (90) days after the date of the mailing of the ballots by the Impartial Balloting Agency. All ballots postmarked later than that date shall be declared void. In the case of those members receiving duplicate ballots, the one with the earliest postmark shall be counted.

g) The members of the official International Ballot Committee and the Impartial Balloting Agency shall be empowered with an order executed by the Organization and signed by the International President and International Secretary-Treasurer and under the seal of the Organization to proceed within seven (7) days following the close of the balloting to the safe deposit vault where the locked and sealed ballot box is kept. Upon presenting the duly executed order to the custodian of the safe deposit vault said custodian shall deliver the ballot box which shall contain all ballots which have been cast.

h) The Impartial Balloting Agency shall proceed then to counting the ballots. Candidates receiving a plurality vote of the general membership for each office, provided the winning candidate receive at least forty (40%) percent of the valid ballots counted, shall be declared elected and a certification of the results shall be made by the Impartial Balloting Agency. Telegrams or other communications shall be sent to all subordinate bodies containing the results of said election.

i) Challenges to the election must be made at the time of the counting of the ballot by the candidate or his representative observer who shall possess certification of same from the candidate he represents.

j) The ballots and all records pertaining to the election must be preserved for one year.

Section 9. Miscellaneous Election Matters

a) Any candidate desiring to distribute literature in connection with his candidacy, as provided under Section 401 (c) of the Labor-Management Reporting and Disclosure Act of 1959, shall be required to pay in advance for the cost of such distribution. The amount shall be certified by the independent mailing service as designated by the Impartial Balloting Agency. The Impartial Balloting Agency shall make appropriate arrangements for the security of the mailing list. The Impartial Balloting Agency shall immediately notify the candidates of the name of the mailing service and the cost of distribution of the candidate's literature.

b) Installation of officers shall take place not later than thirty (30) days after the results of the ballot are known, at the convenience of the successful candidate.

SAMPLE BALLOTS

Because of the number and complexity of the ballots being used in this election it is impossible to reprint sample ballots in this supplemental edition. All Port Offices, however, will receive and display sample ballots for review by any member.

CAMPAIGN LITERATURE OF CANDIDATES

All candidates have been notified of the procedures for the distribution of literature. The lists will not be physically given to any candidate nor will any unauthorized person or organization have access to members' addresses.

Any candidate who has questions concerning the distribution of literature should direct them to the American Arbitration Association, 140 West 51 Street, New York, New York 10020.

COUNTING OF BALLOTS

Only those ballots which are received by the American Arbitration Association by the date shown on the ballot shall be counted.

All candidates and all Port Offices will be notified of the date, time and place the ballots will be counted.

INTERNATIONAL—PRESIDENT

2077a

Patrick J. King

With reference to my nomination for the office of International President of the IOMM&P and pursuant to ARTICLE V, Section 5 of the International Constitution, the following statement is submitted for placement on the forthcoming ballot.

'Joined Local No. 11 of the IOMM&P on 10/1/46 and have remained a member in continuous good standing since that date.

Hold a valid license renewed on 11/3/70, issue number 5-6.

Since 1953 have held the following elected offices in the IOMM&P: President of Local No. 11, International First Vice President and current office as Port Agent in Boston for the New England Area.

In addition have served in the following appointive capacities: International Representative for Government Employees and International Representative for Far East/South East Asia.

Have also served on major Negotiating Committees and as a member of various other Committees on request of the International Organization. Currently serving as a Trustee of the Pension and Welfare Plans.

By reason of experience and academic background am particularly qualified to serve all the members of the IOMM&P as their International President.'

Frank T. Scavo

Member of former Local 88 continuously since joining, November, 1944 Masters License, Unlimited, 6-8.

Sailed in all deck capacities, including Master. Currently serving as Executive Assistant Port Agent, New York. Served in the following elected capacities in former Local 88: Vice President, 1960-1964; Secretary-Treasurer, 1965-1970; Executive Assistant Port Agent 1971 to date.

Two hundred words limitation here could hardly begin to state the many problems, both internal and external plaguing our Organization. I urge you to read my position papers on, **where I stand on the issues and a platform for the future,** currently being mailed to all members.

I feel adequately equipped, resulting from my vast experience in Maritime matters, to cope with these problems. I don't need "on the job training."

If elected President, I pledge to represent **all of the membership,** Offshore, Inland, and Pilots in a fair, honest and forthright manner. My record as representative of former Local 88 will attest to the sincerity of my pledge.

I also solicit your support for Jerry Johnson for International Vice President, Tim Brown for International Secretary-Treasurer and candidates recommended by the Unity Committee.

NO PHOTO SUBMITTED

Philip N. Schmidt

Age 54; native son and resident San Francisco; fifth issue 8th number unlimited master's license dated 3/21/74. No. 722168. Joined Local 90 6/26/46, never suspended or dropped from membership. I am an experienced lawyer with specilization in maritime law but presently earn livelihood as a seaman. I am sailing now and will not be able to campaign.

Assert that I am dedicated to the free labor movement in a democratic society and if elected I PLEDGE to you untiring efforts to heal our internal wounds and to accomplish the ends of 1) tough and progressive contract negotiations based upon prior membership inquiry via referendum, 2) full, open disclosure acts of the office and the organization, 3) Full explanation and alternative choice all significant by-law and constitutional changes (and I propose broad constitutional changes to reflect true will membership), 4) intense organizational efforts to acquire new contracts necessary to pension fund and life organization; 5) Top people in all appointive positions; 6) detailed explanation all "special funds" followed by membership referendum on fate thereof; 7) 100 percent cooperation with officers all divisions.

Harry Friedman

Candidate for Int'l President of the Int'l Organization of Masters, Mates and Pilots.

Joined Local 90 in 1942. Hold valid unlimited master's License, issue 7-10 issued 5-13-74.

Have been Master of the S.S. Puerto Rican, the largest liquified gas-petro chemical tanker under the American Flag, for the past 3 years.

Sailed in all ratings on both freighters and tankers.

As a man who has been sailing steady for the past 40 years, believe I am better qualified to know what the membership wants. Also know shipboard conditions better than any of the present candidates.

Advocate eliminating all special funds; yearly finance report; all officials salaries to be related to ships wages; work out a yearly budget and try to stay within it; keep membership advised on all contract negotiations; eliminate the present method of all top officials' pictures and statements occupying the whole of our paper and print more news of happenings in the industry.

Honest elections and referenda of not less than 90 days; all major decisions to be submitted to the membership.

Thomas F. O'Callaghan

During my service as International President and International Secretary-Treasurer, the organization has made remarkable progress. Today, we have honest shipping. Consolidation has brought us a unity and strength reflected in our ability to negotiate the finest Offshore contract in the history of this organization. Our affiliation with the International Longshoremen's Association has given us the capacity to negotiate from a position of strength.

This administration is solely responsible for the Maritime Institute of Technology and Graduate Studies, the finest school of its kind in the world.

My administration has worked to ensure the continued primacy of the MM&P, our record stands for itself. We have negotiated the best contracts in the history of this organization. We have labored to provide Pension and Welfare plans second to none.

We are now facing the most crucial election in the history of our organization. Your livelihood, your welfare, and the welfare of your families depends on the character and competence of the men you choose to represent you. In this election, I ask for your support, not only for myself, but for my team—the officials who have brought you the Progress, Prosperity and Strength we all share!

Everett F. Hall

I, Everett F. Hall, joined the organization of Masters, Mates & Pilots on June 14, 1961. During my membership, I have never been suspended or dropped at any time.

At the present time, I hold a chief mates license dated September 24, 1970, issue number 2-4. I have been active in the industry and I am now sailing chief mate with Farrell Lines.

2078a

INTERNATIONAL—EXEC. VICE-PRESIDENT

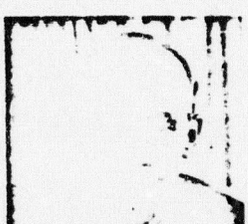
George Vance

I hold an unlimited Master's license 6-9 issue, joined IOMM&P in 1943. Have sailed as Master on Dry Cargo and Tankers, have experience in Labor and Management Relations. I was elected and served two terms on the Executive Committee of Local 15.

If elected, I will endeavor to get a membership referendum for a constitutional amendment for a two term limit on all elected Union officials. I will also work for a more equitable pension plan for the members.

I want to express my appreciation to the many members who nominated me for this position and if elected, I will do all in my power to make the Masters Mates & Pilots a more democratic union.

I have never been suspended or dropped at any time during my membership in the International Organization of Masters Mates & Pilots.



Robert B. Wright

I, Bob Wright, am a sea going member seeking to represent you, the voting membership, to put the Union back into the hands of its members. I am not connected with any group or clique — only Masters, Mates, and Pilots. When elected I will work toward these reasonable achievable goals:

Membership participation — consulted, kept informed, fair for all officers, young and old.

Limited tenure — 2 term maximum.

Constitution in workable, plain language — control in hands of membership through membership meetings and their vote on all issues.

Shipping rules that give members freedom of choice and are to the working members advantage.

Guaranteed pensions — 200 days, investment assigned to member by name and number.

Monthly informative paper — weekly memos and progress reports.

Complete financial statement so that members can control their own funds.

Job security — only one deck officer union, a Merchant Marine second to none.

We are a small Union of men who have a special, uncommon knowledge. Lets work together to make our Union work for us.

Vote for Bob Wright — Joined MM&P, 1945

William M. Caldwell

The purpose of Masters, Mate's and Pilots existence is to improve the economic status and protect the welfare of its membership. For MM&P to maintain leadership in attaining these things for Masters, Mates and Pilots, a strong front must be presented.

MM&P must always have complete autonomy of its affairs, and must never submerge its identity to any group. This so it can always negotiate from a position of strength to advance its progressive programs.

Membership participation in the affairs of MM&P guarantees this strength and is insurance for our future welfare. I will continue to work for:

An American Flag Merchant Marine manned by MM&P masters and Licensed Deck Officers working under agreements for wages and working conditions, second to none.

Uniform agreements, pension, welfare and vacation plans merged. Guaranteed lifetime pensions through solid financing with widow's pensions and dependant's rights fully protected.

Substantial escalator clauses in agreements and pension plans to offet the actual "cost of living" increases.

The goal of two crews for every ship, with a guaranteed annual wage. Opposition to reduced manning as being the answer to all industry's problems.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Gerald L. Johnson

Qualifications-Background: Unlimited Master's License, 5th issue, member since 1944.

Bachelor's and Master's degree from University of Minnesota, 1948.

Chief Mate and Master on Tankers through 1962.

Pier Superintendent — Long Beach, 1962 to 1965 General cargo ships. Active in negotiations with Marine Clerks and Office Workers contracts.

Chief Mate and Master on Containerships from 1966.

I am fully aware that the AMO is a real threat to our historical jurisdiction which results in the erosion of jobs and of vital importance to the stability of our offshore pension fund.

For too long it has been my observations as a working Master, the Pilots and Inland membership have been neglected. It may come as a suprise to practically all the IOMM&P membership that because of this neglect and poor administration we have lost Local 47 on the Great Lakes with approximately 600 members.

I am fully confident that my experience and background qualifies me for the office. I pledge to work and serve in the best interests of all the members of the IOMM&P.

I urge you to vote Frank Scavo for International President and Tim Brown for International Secretary-Treasurer.

INTERNATIONAL – Secretary Treasurer

John R. Seybert

I have been a New York member in good standing since graduation from Kings Point in 1963. I am presently secretary-treasurer of the former Local 88 Building Corporation. I hold a valid second mate's license, issue number 2-3. I am a graduate of the University of Cincinnati College of Law, a member of the New York and federal bar. I have over three full years at sea on tankers passenger ships and freighters, including my last assignment as second mate on the Erick Holzer in 1973.

I am against the 6% Assessment. I fought for its' defeat at Princeton, N.J. in 1972. In 1974 I prepared and commenced a law suit which resulted in the return of approximately $250,000 in illegally collected monies.

I support open meetings and minimum 90 day membership referendums. In 1973 I brought suit because second and third mates were being removed from their ships without a favorable referendum. A contract referendum was then held.

I have fought for pension reform. I support a realistic top limit on pensions.

I will work for a reduction in non-essential port officials, limitation of official's salaries and a return to active union organizing.

Robert J. Lowen

Unlimited Master 4-7, 8/13/73. Continuous membership Offshore since graduation USMMA 1952. Unlike my two opponents, I am no part-time sailor! Pension plan records show sailing credits averaging 350 days yearly. Almost twenty years sailing . . . majority as Master.

In 1972, your votes elected me Secretary-Treasurer by the largest plurality any International Officer has received recently. I have tried to honor that confidence by remaining open to suggestions, candid in my comments, diligent in my duties, and always available to the membership.

During my term of service, I have gained valuable experience through involvement . . .

Nonstop Negotiations for Best Offshore Contract Ever.
Trustee East and West Coast Plans.
Helped Double Pilot Division Size; Initiated Pilot's Health Plan.
MEBA, SIU, AMO, IBU Job Disputes for Offshore and Inland.
Congressional Legislation.
Military Sealift Union Representation Election
Panama Canal, FLORIDIAN, SIBONEY, SL-7 Disputes.
NLRB Hearings: LPB'S; Arbitrations.
Directing Union's Financial and Administrative Affairs.
Contract Enforcement.

I ask your support — and your vote — not only for me, but for President O'Callaghan and those candidates supporting him and his Administration.

A United, Experienced, Knowledgeable Team on the Bridge will protect your interests.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Timothy A. Brown

Qualifications: Unlimited Master's license, issue 1-4. Seven years sailing experience on tankers, dry cargo and containerships in all berths through Chief Mate. Member continuously since graduation from Kings Point.

Masters of Science degree in Accounting from Wharton Graduate School.

Masters of Business Administration degree specializing in Labor Relations from Wharton Graduate School.

Plaintiff in class action lawsuit which pressured the International into returning monies improperly from the membership retroactive to the 6% dues ratification date.

Platform: The Unity Committee favors a reasonable ceiling on the pension and a narrowing of the gap that currently exists between those at the top and those at the bottom. A total review of the pension by an independent body is needed.

We favor a reduction in the salaries of offshore union officials of at least 10% and a reclassification of some ports in order to establish a closer parallel between the amount of shipping done in a port and the salary paid for the union representative in that port.

I ask your support of Frank Scavo for International President Jerry Johnson for International Vice-President, and all members recommended by the Unity Committee.

NEW YORK PORT AGENT, VICE PRESIDENT ATLANTIC

(And Convention Delegate by Virtue of Office)

2080a

NO PHOTO SUBMITTED

Charles N. Henning

NO STATEMENT SUBMITTED

★

Joseph B. Gaier

Master's License — Unlimited — Issue 7-10. Sailed in all Licensed Deck Officer capacities, including Master.

Presently serving as Vice President — (Atlantic), and New York Port Agent.

Trustee Masters, Mates and Pilots Pension, Welfare and Vacation Plans.

Trustee Masters, Mates and Pilots Maritime Advancement, Training and Education Program.

Trustee Masters, Mates and Pilots Joint Employment Committee Convention Delegate (I.O.M.M.&P.) and (N.Y.S. AFL-CIO).

Technical Adviser for the U.S. Government to the Inter-Governmental Maritime Consultative Organization (I.M.C.O.) and International Labor Organization (I.L.O.), London, England and Geneva, Switzerland.

Member N.Y. Labor Council (AFL-CIO) and Port of N.Y. Maritime Coordinating Council (AFL-CIO).

Also served as a member on numerous International Sub-Committees and Licensed Personnel Boards.

If elected, I pledge to continue to work for the best interests of the membership and the Organization.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Charles A. Hemming

As a candidate chosen by Members for a Democratic Union (MDU) to seek the office of Port Agent/Vice President, Offshore Division (Atlantic) and Convention Delegate, I am pledged to the principle of full and final authority to our MM&P Union by our membership. I shall initiate a constitutional change to enable our membership to fully exercise that authority. Foremost among important matters which I believe the MM&P Membership has the unequivocal right to decide are:

- Labor Contracts
- Pension Fund Programs
- Building and operating new facilities
- Transfer of money among Plan Funds
- Major MM&P Policy changes
- Strike Issues
- Union Mergers
- Officials Salaries
- Dues Increases or Assessments
- Officer's Tenure of Office

If elected, I pledge to make full financial disclosure annually.

A KNOWLEDGEABLE MEMBER IS A MEMBER EQUIPPED TO VOTE INTELLIGENTLY. LET THE MEMBERSHIP KNOW THE TRUTH AND A UNION IS SAFE!

GALVESTON PORT AGENT, VICE PRESIDENT GULF

2081a

(And Convention Delegate by Virtue of Office)

PHOTO TECHNICALLY DEFICIENT

Leonard L. Gause

As candidate for Port Agent, Port of Galveston, Vice-President — Gulf Coast — I earnestly solicit your support and submit my qualifications as follows:

My seagoing career as a Licensed Deck Officer began during World War II after graduation from Kings Point in 1944. After serving on active duty as Lieutenant USNR during the Korean War, I continued my education and received a Bachelor of Science Degree in Nautical Science. I hold an unlimited Master's License. Radar Observer, Issue No. 2-9, dated 4 April 1974.

On October 27, 1970 I was appointed Field Representative, Port of Corpus Christi, Texas. My letter of appointment is quoted in part herewith: "Captain Gause is to assume his duties as of November 1, 1970. He is experienced and fully qualified in the operation of both Dry Cargo vessels and Tankers." Signed by Robert L. Jones, Vice-President, Offshore Division, IOMM&P. As Field Representative much valuable experience was gained in the affairs of our organization.

I am dedicated to the basic fundamental that the control of our organization be returned to the membership where it rightfully belongs. This goal can best be achieved by electing Frank Scavo, Gerald Johnson and Tim Brown, for international Officers.

★

Robert L. Jones

In eight consecutive elections, the membership has afforded me the honor of being President of a Local, Vice President (Gulf) — Port Agent, Convention Delegate and member of the Negotiating Committee.

By appointment, I hold the office of Trustee on the Pension, Welfare and Vacation Plans. Nineteen years of service on the Plans reflect an aggressive record of introducing and pursuing the adoption of vast improvements in benefits for the membership and their dependants.

I have devoted some twenty-three years to the service of the membership and the Oranization. When not required to be elsewhere on business, I work and remain in the office, being available to Officials and members.

I shall not spend the Union's time going from port to port, boarding vessels and campaigning for office. I make no flowery promises to get votes. My program is to work to make our Organization stronger, afford job protection, increase job opportunities, contract improvements and enforcement thereof.

I make no claim to being a ship's Master. I do, however, pride myself on being a first class Union Official and Licensed Deck Officer and I respectfully solicit your vote.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Arthur Holdeman

Master's License. Master's experience on both tankers and freighters.

Will work towards; reinstating membership meetings; Insuring fair and impartial elections and referenda of not less than 90 days; economy, we must re-evaluate the whole financial structure of the union. Will also work towards having the whole pension structure studied by professionals.

The ILA affiliation must be checked over thoroughly. The Constitution needs many changes, one, to allow the election of Offshore President, Vice President and Secretary-Treasurer by a direct vote of the membership of the Offshore division.

SAN FRANCISCO PORT AGENT, 2082a
VICE PRESIDENT PACIFIC
(And Convention Delegate by Virtue of Office)

Jack Ofelt, Jr.

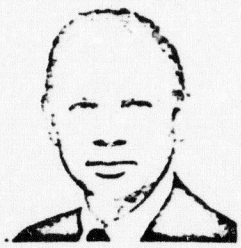
Graduated Kings Point 1962 Deck; Northwestern College of Law 1968. Sailed on license, cargo vessels, passenger vessels and tankers. Unlicensed, A/B tankers. Practicing trial attorney.

MM&P members now have no voice in union affairs, all they have is their vote. Use it! If elected, I will work toward the members' wishes controlling the officials' acts.

The union is involved in much unnecessary litigation. I will endeavor to prevent that to the best of my ability.

If elected I will work toward: 1) Resolve members grievances within 3 days; 2) Reinstate meetings; reevaluate quorums; 3) Organizing new companys — land and sea; 4) Pension reform; raise base, review investments; 5) Revert to 200 days pension qualifying; 6) Overhaul constitution — less power official; 7) Better relation with other sea-going unions; 8) ILA affiliation reviewed, publicized; 9) Terminate special funds; 10) Proposed annual budget with disclosure; 11) Overhaul training school; 12) Better contract enforcement; 13) No strike without vote.

To insure the above, I ask you to vote for MDU and WC Committee candidates. Thank you.



Virgil G. Valentine

License: Master, Unlimited. Education: Arizona State College 1949-1950. Kings Point, Class of 1954. University of California, Graduate School, 1960-1961.

Experience: 1954, A.B. and Third Mate on Tankers out of Philadel[illegible]. 1955-1960 Active Duty, U.S. Navy on Cargo Ships and Destroyers and Instructor of Naval Science California Maritime Academy. 1961-1974, Sailed on Freighters, Lash, and Container ships as well as tankers of drug store, chemical and super-tanker classification as third, second and Chief Mate.

MM&P Union Activities: 1965-1966, Alternate Member, MM&P Local 90 Dry Cargo Negotiating Committee.

1965-1970, member, ERC Committees, Local 90, San Francis[illegible].

1967, member of Local 90 By-laws Committee and author of Local 90 by-law clauses re[illegible]ing run off of candidates for office and contract ratification by members by Postal Ballot.

1967, elected Trustee of Local 90 and served in such capacity during 1968-1969.

1969-1970, elected member of Local 90 negotiating committee. Originator of Jurisdiction clause in our contracts. Co-author of MM&P Dry Cargo Negotiating Committee Minority Report.

1971-1974, elected Delegate to International Convention of IOMM&P and served as delegate to 1973 and 1974 conventions.

Orion (Bill) Larson

Have been a continuous member of IOMM&P (former Local 90) and its successor, IOMM&P Offshore Division since February, 1941 when I received my original License. I am presently licensed as Master, issue 6-9, issued 22 December, 1969.

Have sailed in all Licensed Deck Officer ratings on Dry Cargo, Container and Passenger Vessels from Junior Third Mate to and including Master.

Am presently 56 years of age and after some corrective surgery in 1974, am enjoying good health.

Was elected to the office of Secretary-Treasurer of former Local 90 and took office December 23, 1963. I was re-elected to that office in 1965, 1967 and 1969 and held that office until the Consolidation on October 1, 1970 when I became Executive Assistant Port Agent, San Francisco and alternate Vice President Offshore Division (Pacific).

On January 1, 1972, I was elected to the office of Port Agent, San Francisco, Vice President Pacific — Offshore Division and while serving in that capacity, actively participated in the formulation of contract proposals and in the negotiation of the 1972-1975 Master Contract.

From 1964 through 1971 I was a Trustee on the Joint MMP/PMA Plans, and in January of 1972, became Chairman of the Joint Trustees. I am also a Trustee on the M.A.T.E.S. Program.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

2083a

NEW ENGLAND AREA—Port Agent (Boston)

PHOTO TECHNICALLY DEFICIENT

Vincent M. Federico

Graduated from Mass. Maritime Academy in 1962 and have actively been engaged in the Maritime Industry since. Served on Tankers and Cargo vessels under Deep Sea Contracts and Towing Vessels under Inland conditions.

I believe in a strong union and to have this we must have conscientious informed, and available officials who are willing and able to work closely with and for the Membership. Having taken part in two major contract negotiations and serving on various union committees as a rank and file member, I believe I have shown a willingness to work for the Union's interest over my own and will let the results speak for themselves.

By having shipped both Offshore and Inland, I also bring a familiarity with both divisions. At this time of change in the New England Area, I believe this will be of value to the Membership as I can make decisions based on secure knowledge of facts and conditions that are pertinent to the situations in both areas if needed. This is something I believe no other candidate for the position can do. I also pledge myself to be available to the Membership on an unlimited basis. My job will be to serve you when you want me, not when I want make time to serve you.

Frederick S. Laird

Member of MM&P July 1945 and remained in good standing since. I hold valid Masters License, any ocean, tounage, horsepower steam or diesel, with pilotage.

Sailed C/Mate, 2/Mate, 3/Mate, Freighters, tankers, of all types and well aquainted with seafaring members problems.

Well aware of problems in Port of Boston and Northeast Area, having assisted in some of the Port of Boston duties at various times, also being consulted by present incumbents in helping solve these problems.

Will render prompt impartial service eight hours daily to all as per Constitution and Shipping Rules, all ships visited, Masters, Mates views on all problems obtained.

Will try to obtain equalization of wages for all members in line with recently negotiated 10.2% granted for 1974, Masters, Mates, on Boston Towboats, Boston Fuel Transfer Vessels, recently obtained by Port Agent Patrick J. King.

Not affiliated with any group, but will work with anyone, group, for the betterment of the Masters, Mates & Pilots, and its members.

I endorse the following members;

Patrick J. King for International President,

William McLaughlin, Asst. Port Agent Providence, and Fred S. Laird Candidate Port Agent Boston.

Frank C. Flaherty

Received original Third Mate's license September 1942. Joined former Local No. 11 Masters Mates and Pilots on February 23, 1943. Have remained a member in continuous good standing from then to present date.

Hold an unlimited Master's license 5-9. Presently serving as Assistant Port Agent IOMM&P Offshore Division, Boston, Massachusetts.

John Rosand

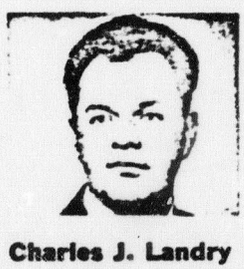
NO STATEMENT SUBMITTED

David A. McLean

In the forthcoming election I will be a candidate for the office of Port Agent, Boston. I have been a continuous member in the MM&P since 1961. I am 44 years old and sailed until I became an official in 1967 and have been ashore since in the service of the Union. I have sailed tankers and also freighters into the New England area.

I have never been against free speech or any group seeking political recognition, but some of the junk literature being distributed by some "High tension" political aspirants is sickening. It insults the intelligence of those members who realize the progress and gains this Union has made recently. These opposition groups cunningly try to tangle the Union up in knots so there will be no movement except in public debates or court rooms. I have refused to become involved and get tied down fighting nonessentials when the rest of the membership is seeking *service* and *representation* and this will stand as my reply to all the drivel and slanted sheets directed at the administration I am part of.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.



Charles J. Landry

I am a Graduate of the Maine Maritime Academy, Class of 1964 with Honors, Graduate of the M.I.T.G.S., License Advancement Program 1974. I presently hold an Unlimited Chief Mates Licence. I have been an active sea going member, in good standing of the IOMM&P for eleven years, and have sailed an equal number of years on both Dry Cargo and Tank Vessels during that time, with some experience on Passenger Vessels and Tugs.

If you elect me as your Port Agent-Boston-New England Area, I Pledge to work for more unity within the membership, by giving the membership more of a voice in the Unions Policies, through the greater use of the monthly Union Meetings and Voting by Mail Referendum. I also pledge to work for a full disclosure of our Financial Status, and to work for reducing our operating expenses where ever possible. It will be my policy to personally visit any ship that arrives in the Boston area that requests my service as your Port Agent, when ever possible.

2084a

NEW ENGLAND AREA—Port Agent (Boston)

NO PHOTO SUBMITTED

Anthony J. Belmonte

I am thirty five years of age, hold second issue of Masters license unlimited, a graduate of the Mass. Maritime Academy, and have sailed continuously with MM&P since joining the organization 14 years ago. My continuous sailing in all grades gives me a well rounded view of the problems that we the membership face. As a member in the New England Area for the same 14 years I feel that I am also aware of the problems that exist locally.

Union leadership has become stagnant. Ships and working conditons are changing daily, and we must be willing to change our leadership to men who will be able to keep up with the times, without sacrificing service to the membership. You as a member of MM&P pay for and deserve the service of a non-aligned member who is willing to work for you.

It's time for a change to younger, more aggressive leadership who will work for, and insure, the benefits of all. A vote for me will be a step in this direction.

NO PHOTO SUBMITTED

Andrew G. Ougheltree

NO STATEMENT SUBMITTED

NEW ENGLAND AREA
Assistant Port Agent (Providence)

2085a

William J. McLaughlin

I am running for the position of Assistant Port Agent in the New England Area. I am not a member of any group or faction, but am running as a true rank and file member of the IOMM&P. My allegiance is only to the IOMM&P and ALL its members. Obtained original license in 1946. Joined Local No. 11 of IOMM&P that year. Have been a member in continuous good standing since that date.

During the ensuing years have sailed as Chief 2nd and 3rd Mate in Dry Cargo, Tankers, Bulk Carriers and Tugs. Have also been active in MM&P affairs in the New England Area, having served on various union committees and acted in an advisory capacity to the various MM&P officials in that area.

I advocate a greater degree of participation in the affairs of the organization than now exist. This can be achieved in part by a reemphasis on the necessity for regular membership meetings and an improvement in communication between the members and their elected officials. This would result in a greater control of the affairs of the organization by its membership.

George E. Landrigan

George E. Landrigan: Master's License 5-8. Have been a member of IOMM&P since receiving my Third Mate's license in November, 1945. Served in all capacities from Third Mate through Master. Held elective office under the local system, serving as 2nd Vice President of Local 11 also 1st Vice President, Clerk Dispatcher as required by the Local 11 constitution.

William F. O'Brien

My primary purpose for seeking this position is that I don't believe an official 15 or 20 years ashore can adequately serve the interests of the membership as Assistant Port Agent.

Our organization today is in a position of greater strength than it has been for a long time and we have a pretty good contract. It will take an active Licensed Deck officer who is aware of our problems on the ships and our problems in the organization ashore to best serve the membership and to help realize all the benefits due us from our position and contract.

I don't think bureaucracy and red tape should cover up ineptitude, lethargy and indifferences nor should a secretary be running our union hall, no should a member have to make an appointment to see his elected port official.

If I am elected I intend to be a full time union representative. I wont presume to claim to change national policy but I will cover the ships and solicit your ideas and feelings about policies shipping rules and goals for our union, and make these known to the General Executive Board and convention. I intend to settle your beefs not process them.

Leo Skevnick

Unlimited Masters license 2-7, sailed in all capacities including Master, at present sailing Chief Mate.

Graduate of Kings Point-Class of '49, member of the Masters Mates and Pilots — Local 88 — New York since June '49. Active in rank and file activities.

I am strongly in favor of:

A cost of living clause that is more compatible with the present rate of inflation.

In increase in the base Pension and an addition to the Pension Plan whereby the widow of an active member has the option of receiving 50% of the members earned pension credits for life rather than having to accept the full five year payment sum now in existence.

Vincent J. Yakavonis

My interests lie in our future and that of our Organization. Most of us know too little about what goes on within the Union and take too little active part in its affairs; I care about where our Union is headed and want to help direct the MM&P toward a course most beneficial to the membership.

If elected Convention Delegate, I shall do all in my power to see that the individual rights of our members are protected and that a strong unified organization is maintained for the good of the members.

I need your vote in order to serve you as Assistant Port Agent (Providence). If elected I shall do my utmost to give the membership the service and help from my office which they are entitled to.

Malcolm A. MacDonald

My qualifications are: thirty years in the Marine Industry starting in the Focsle.

I have a valid license. I am a former member of Local 11 (Boston) MM&P, and at no time have I been dropped or suspended.

I am forty seven years old and married.

My aim is for the betterment of the Members of the MM&P Inland as well as Offshore. I'd like your vote to achieve this aim.

2086a

NEW ENGLAND AREA
Assistant Port Agent (Providence)

NO PHOTO SUBMITTED

Milton A. Andrews

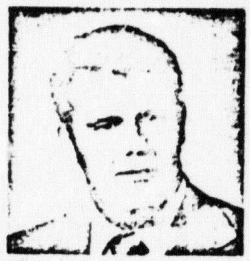
NO STATEMENT SUBMITTED

John P. Hemmalin

I am a graduate of Massachusetts Maritime Academy, and am a third generation member of the Masters, Mates and Pilots. I hold a valid license and have never been expelled or suspended from the Organization. I have sailed coast-wise and foreign on dry cargo and tanker vessels.

My last assignments were on the S.S. Green Springs of Central Gulf Company, and the S.S. Pasadena of the Trinidad Corp.

If elected I will serve the membership to the best of my ability and with the same enthusiasm and vigor that I expected from the officials. I will endeavor to board every vessel coming in to the area.



James J Brady

My name is James Brady (age 33) I have never been a candidate before for any union office. The MM&P has been good to me. I received my first license in 1968 through the original mates training program and advanced myself by attending both CARS and ABCT and upgraded my license by attending LAP. I am currently dismayed by all the different factions that want to fracture this union.

There were only two rank and file observers besides myself who attended all sessions at the recent MM&P convention, I was impressed with the manner in which it was conducted. My last employment was aboard the Empire State as Senior training officer and navigation instructor. This vessel is the training ship for the maritime college, State of N.Y. better known as "Fort Schuyler." Other employment consists of frequent sailings on both dry cargo and tanker vessels. Sailed on the maiden voyage of "Overseas Juneau" The first one with three mate manning. To serve you in the New England Area I need your vote.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Joseph DeVico

My name is Joseph DeVico. I save been a member of the MM&P since 1942. I hold a 6th issue of a Master's license.

I have sailed on all types of vessels in various capacities in the last 32 years.

If I am elected I promise to serve the union and its members faithfully and diligently.

2087a

NEW YORK—Exec. Assistant Port Agent

Richard J. Polachek

I am presently serving as Assistant Port Agent, No. 1, a position the membership elected me to following the consolidation in 1971. Prior to the consolidation, I held every elective office from Patrolman to President of former Local 88.

Have been in the Merchant Marine since 1935 and a member of Local 88 since 1942, which I joined upon graduation from Fort Trumbull. Active in all strikes; Chairman and member of many necessary Union Committees. Capable and willing to Chair Regular Port Meetings.

I have served as an elected delegate to every International Convention since 1960. I have also served on the Contract Negotiating and Ballot Committees since the consolidation.

As I have done in the past, I will continue to ensure that the Shipping Rules, Constitution and Contracts are enforced. As a Representative to our Pension and Welfare Plan, I will continue to press for proper funding, so that all Pensions will be guaranteed.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

G. N. Haleblian

Prior to joining MM&P, served as elected officer in independent tankermen's union. Processed grievances, prepared cases for arbitration, researched contract proposals, negotiated contracts. Made cutbacks in union expenses resulting in black ink for the first time in 25 years. Insured sound pensions by getting thorough pension analysis by professional pension consultant. Utilized due process of law in dealing with management, when necessary, with complete success in the courts, before the NLRB, USCG, and on one occasion the US Court of Appeals. Served as Director of Elections for 20,000 member AGVA (AFL-CIO). Supervised the conduct of all elections and referenda without challenge or complaint. Consulted frequently with Dept. of Labor regarding secret ballot, election procedure, etc. Joined MM&P June 1967. Sailed tankers, container ships, RORO, LASH, and general cargo ships. A solvent pension plan is my top priority item. Favor reduction in elected officers salaries by 10%, and the elimination of the 6% vacation cut. Strict, uniform shipping rules in all ports to protect job security, and closing the fraternal gap between Masters, Mates and 2nd and 3rd Mates in the hall and on the ships.

H. L. Nereaux

Member, Port of New York continuously since 1956. Labor studies N.Y. Labor College Elected assistant Port Agent N.Y. April 1974.

First member of the off-shore Division to be elected Nationaly.

My past and present participation in Rank & File activity have aided me in making daily decision when handling Grievances as Asst. Port Agent.

Chosen by members for a Democratic Union and West Coast Mates Committee for the position of Executive Asst. Port Agent. Will abide by the principles set forth in their platform.

Will continue to work for membership control of (our) Union.

I believe the rights of the members to be preeminent, the Union shall be governed by clearly defined rules, ratified by the membership.

The Officials Shall lead and serve with integrity, and ability and with complete responsiveness to the needs and wishes of the membership.

2088a

NEW YORK—Assistant Port Agent

Lawrence A. Burlingame

I believe that I am qualified to represent you as a union official. I have had many years of experience on all types of tankers (including chemical tankers) and have sailed on container and dry cargo ships. At present, I am sailing on a coast-wise tanker as a deck officer.

I you elect me to office, I will demand the following:

1. Restoration of the division of wages when a vessel sails short handed.
2. Reinstatement of the uncovered time clause
3. Renewal of the severance pay clause.
4. Introduction of an escalator clause for pay raises to meet the cost of living.
5. Termination of the 6% deductions of our vacation money taken out for union dues.
6. Reduction of the required time for four-quarter yearly pension credits, to two-hundred days per year.

If you elect me; I will board your vessel when you dock or anchor and have your claims and disputes settled before your vessel sails.

Before the union calls a strike, the membership shall have a strike vote, and be informed of the issues involved.

Promote coperation with the other maritime unions to avoid any sweetheart contracts that may reduce manning scales to three mates per ship.

Edward Gras

I am presently serving as the Assistant Port Agent in the Port of New York. In this capacity I have the opportunity of meeting with a broad range of the membership and having direct exposure to the problems facing our organization at this time.

I presently hold a Master License 2-5. I am 38 years of age and have 15 years of MM&P pension credits. I have sailed since my graduation from Kings Point in 1958 in all licensed Deck Officer capacities up to and including Master on Freighters and Chief Mate on Tankers and Container Vessels. I have never held any job except MM&P covered employment since my graduation from Kings Point.

I have no outside business interests, and if elected, will devote my entire effort to meeting the member's needs and improving our conditions in the best interest of trade unionism.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Robert A. Liddy

Masters license, 6-9. Served as elected 2nd vice-president, former Local 88, in 1966 and 1967. Returned to sea in 1968 and sailed in all capacities, including master. Just as shipping out updated my knowledge of sea-going problems, my awareness of night mate conditions was also updated by actively working as such when ashore.

I am not a moon lighter. I have no other profession or business which, if elected would preclude giving my full time attention to the job. Having always lived in and shipped out of New York, I am familiar with the metropolitan area. I have had experience on many union committees and with the interpretation of the contract, shipping rules and constitution aboard ship and in union office. I am not associated with any clique or committee except a committee of one to elect R.A. Liddy as Asst. Port Agent — New York and as convention delegate.

Frank Radomski

I have put my time in before the mast and also have had previous Union experience.

I have been a member of this Union since 1967 following my graduation from the Mates program in Galveston. I have supported the International Officers on the consolidation of the locals to strengthen the Union and the bracing up of the organization through an affiliation with the I.L.A.

A Union is only as strong as its members. I believe the collective bargaining agreement must be lived up to, and, when elected, I shall endeavor to enforce strict interpretation of it whenever needed.

I also reserve the right as a Union member to give constructive opinions to the proper officials to benefit the majority of the members and the Union as a whole.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Joseph A. Stanley

As the incumbent, I have had the opportunity, here in the Port of New York, the organization's largest Offshore port, to meet a great many ships for pay-off and to ascertain and resolve, if possible, member beefs. Prior to coming to New York as Assistant Port Agent, I was elected to Union office in the Port of Tampa since 1966.

While serving the membership in Tampa, I was elected Convention Delegate and also served as President of the Tampa Port Coordinating Council.

I have served the membership honestly and sincerely, and when reelected, I will continue to do my best to give every member an equal opportunity for jobs and the services to which they are entitled. I sincerely solicit your support and vote to carry on the highest standards that the present Administration has afforded the membership.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Victor Soto

Member since 1947 in New York. Hold valid license. If I am elected will continue to be positive and vigilant. I have been part of the opposition movement which has been responsible for changes in some of our unfair regulations. I am aware of the power of the membership as a whole and through the membership will continue to act.

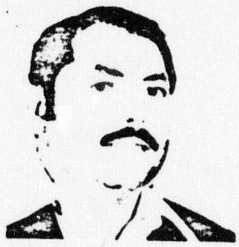
Much effort is needed in promoting changes to the present structural set-up of dues, Pension and Welfare and, its administration, Vacations and shipping rules, Members properties and most of all, the protection and exercise of the rights of the membership by restoring membership meetings.

Affiliations and consolidations must be a vehicle of mutual support and positively not an instrument of personal power.

If elected, I will strive for goals which will be equally beneficial to all members and not simply a few.

NEW YORK—Assistant Port Agent

2089a



Franco Morales

Born: July 6, 1938. Graduate of the Master, Mates & Pilots Program at the Emerson Hotel in Baltimore. Upgraded to 2nd Mate since then, member since 1969. Former member of Local 88, at present sailing as 2nd Mate on the SS SANTA ELENA.

Ex NMU member good union record there, and MM&P Strike Clearance, including O'Callahan fiasco with Prudential Grace Lines.

Good working knowledge of present contract, dry cargo and tankers.

If elected I will serve the need of the membership to the best of my ability and work with you to bring the Union back to the rank and file.

Amos E. Koonce

Continuous membership in MM&P since January 1946. Hold fifth issue of Masters License dated April 10, 1972. My experiences cover all licensed capacities aboard dry cargo vessels, tankers and extensive on chemical tankers. Served on "Special Constitution Committee," strike and ballot committees.

I'm Treasurer, co-founder and main organizer of "Members for a Democratic Union" with a membership nationwide that has grown into a force to be recognized with respect.

Active in preparing and distributing leaflets disseminating information on union affairs to the membership. Committed to the membership's right to be fully informed and insist on our right to decide.

Favor restoring and keeping our union democratic. Opposed to the dictatorial powers given the International President and General Executive Board by our New Constitution.

Will insist on the right of member MM&P pilots to control their own affairs as ship pilots within the framework of the Organization.

Participated preparing "Members for a Democratic Union's" Platform setting forth a highly desired "program for the membership" and committed to effecting the provisions therein.

Voting for candidates on "Members for a Democratic Union's" Platform will return confidence and integrity to the Masters, Mates and Pilots.

William R. Sorrentino

I graduated from Fort Trumbull Officer's Training School at New London, Connecticut. I hold a Chief's Mate License, issue 6-8 dated September 1969. Sailed on all types of vessels. I have clearance for all strikes. Taken various courses at Queens & Brooklyn Colleges at night.

I will fight to restore the following:

1. Restore "Full and Final Authority" to the membership. 2. Limited tenure of office to two 3 years terms. 3. Official's salaries in parity with seagoing members. 4. If elected, unconstitutional raised, money placed in escrowed. 5. Restore 200 days pension credit year. 6. **Equal pensions based on the Cost of Living, Upwards only.** 7. Guaranteed annual wages or supplemental unemployment money. 8. Paid attending school to advance one's own profession. 9. Daymates on week days for fast turn around vessels. 10. Affiliation but not dominated by other Unions. 11. Register for shipping in any port to ship out of that port no need to register for shipping in any port to mate. 12. **Eliminate 6% on vacation paid to the Union.** 13. **Restore severance pay, division of wages, uncovered time.**

Robert P. Thompson

Age 32. Married, 2 children. Bachelor of Science Degree, N.Y.S. Maritime College Licensed Master, Any Gross Tons, Upon Oceans.

Sailed in unlicensed deck ratings from 1963 to 1966.

Since joining ex-local 88 in 1966, I have sailed continuously in all licensed ratings, and as Chief Mate from 1970.

Since April of this year, I have been in the employ of the Organization, serving membership needs in International Headquarters and, more recently, in the Port of New York. I have a thorough knowledge of the working agreement, union structure, constitution and by-laws. A lifelong resident of the city, and having shipped exclusively out of New York, I am familiar with all ports and harbor terminals as well as contracted company office and managerial personnel.

I feel I have the knowledge and seagoing experience necessary to perform the task of Assistant Port Agent, and if elected, will do the job to the very best of my ability.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Ernest K. Swanson

Age 38. Master's License, Unlimited (2-5) issued in 1970. Kings Point graduate. BS Degree. Served obligatory Naval service and joined N.Y. Local in 1960. Continuous membership in good standing. 14 years sea time on contract tankers, freighters, and containerships, including 7 years as Chief Mate.

The complexities and associated problems of modern vessel operation mandates we have leadership knowledgeable and experienced under existing shipboard conditions to guarantee our effective and comprehensive representation. Modern Labor Relations arbitration dictates intelligent and responsible representation to ensure equity.

Having personal concern for the future of our organization, and our dignity as officers in this changing industry, I can lend support to all who constructively seek to further our progress and democracy. Being in concert with the vast majority of seagoing members in their grievances and frustrations, I will direct my efforts toward rectifying the obvious wrongs. I cannot make extravagant promises, since this office does not encompass authority to alter existing agreements or the Constitution. This power rests ultimately with an informed membership.

I can pledge my honest and diligent effort to provide proper representation in resolution of disputes; promoting unbiased dissemination of pertinent data; and actively impressing membership views upon the organization.

PHILADELPHIA—Assistant Port Agent

Cyril J. Elias

Being dedicated to restoring union democracy, I want contracts ratified before implantation, meetings held with realistic quorums, and rank and file convention representation.

I believe the pension should be restructured, insured and tied to living costs. Instead of special funds, increases should be paid to pensioners in this period of inflation and additional funds set aside for the future.

An effort should be made to eliminate the inequities of the tanker base wages and manning scales.

I call upon all our officials to make full financial disclosures prior to this and all elections. Also, all officials in charge of ports should show their operating expenses, so all can compare and judge their efficiency.

If elected, I intend to operate Philadelphia in an effective and efficient manner. Reduce costs wherever possible and provide service in a manner befitting an Officer's organization. I will strive to have any monies thus saved passed on to the membership by reducing or eliminating the vacation pay deduction.

I have sailed actively and been a member continuously since 1960. Hold unlimited Master's License 2-5, dated December 20, 1972. U.S.M.M.A. graduate.

Charles E. Jess

United we stand-divided we fall. It is not what I can do for you it's what we can do for you. No more hat in hand for third mate jobs no more 2 years on the beach for a job.

Where would we be now, if it was locals with a flooded Union of members. No more me too with the engineers and crew.

Vote the incumbent ticket and include me.

Member for 30 years. 11 years as a patrolman, Dispatcher, Representative, Assistant Port Agent.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

NO PHOTO SUBMITTED

Charles Sunderland

If your interested in an independent candidate, owning favors to no one, promising only fair, equal and vigorous representation for every member, then vote for me.

If you want a full time Assistant Port Agent who will meet every MM&P contract vessel that makes the port of Philadelphia, then vote for me.

If you feel that our balloting system needs to be revised so that the will of the membership will at all times prevail, a ballot that we can believe in, the vote for me. A fool proof ballot is possible and I would endeavor to implement this system.

If you want a captive candidate, then vote for some one else.

If you want to curry favors for your vote, then vote for some one else.

If you want to be represented during election year and forgotten the rest of the time, then vote for some one else.

If you give your ballot to anyone to fill out for you, then you voted for some one else.

If you want more of the same, then vote for some one else.

It is not my intention to impinge upon nor be critical of any candidate, their performance speaks for itself.

Philip Vecchione

Master License, 2-6. B.S. Accounting, La Salle College, Phila. 1960. Coordinator (CAP) Newsletter, Phila.

Sailed all types of ships up to chief mate, averaged six months work annually since becoming a member of MM&P 15 years ago, three-quarters of the time at sea.

Goals: Re-evaluate all that has transpired since that Balt. takeover. On May 28 the courts did us a favor in tossing out the roll of baloney labelled the constitution. On Oct. 3 the courts may hopefully toss out the election in progress with the anticipated 30-40% in duplicate ballots that will be floating about, and replace it with one that will be fully controlled by the Labor Depart.

Support: Concentrate the vote on the more serious slate of candidates, Capt. Frank Scavo, the Unity Slate, as well as other recommended candidates.

BALTIMORE—Port Agent

2091a

James T. Hopkins

Following graduation from Kings Point, I joined the Union in 1960. I sailed four years as a licensed deck officer (present license Chief Mate issue 2-4). I began my teaching career at the Texas Maritime Academy. In 1967, I became an instructor for MATES Program and from 1969 to May, 1974 I was Dean at MITAGS.

My teaching experience was a valuable learning experience. Among other things, I learned that Union members have lost confidence in the representation they are receiving. I believe the Union and its officers exist for only one reason TO SERVE THE NEEDS OF THE MEMBERS.

Every ship in this port will be met and contracts will be enforced.

A Union official will be available at all times.

The Hall in Baltimore or Management must be greatly improved so as to properly represent a Union of skilled professionals.

Make your vote work for you, take an active part and vote for the candidates who will do the job.

Morris (Moe) Weinstein

I am running for Port Agent, Baltimore area, which is the same job I now hold. I wish to continue here because my many contacts are helpful in providing efficient representation in everyday problems. I originally joined Local 90, and remained there until a discriminatory ruling against Local 90 members by Local 14, forced me to transfer. I fought injustices and eventually became president of Local 14. Participated in founding our training school, obtaining contracts, trustee-pension welfare vacation plans. I am proud that our affiliation with the I.L.A. was brought about during Captain O'Callaghan's administration, whose policies I support. Consider the candidates carefully, not only by their campaign literature, but by facts that you know as an active member. Do not elect a confused group to office with negotiations coming up soon. Decisions of officials affect your life and the lives of your loved ones; choose officials wisely. Don't be misled by "Dirty tricks" propaganda which floods your ship or home. Such stuff never contains a workable platform; never has proof of its charges. To continue its gains, this Union requires STRONG top leadership.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

2092a

BALTIMORE—Assistant Port Agent

Herbert J. Mohr

I, Herbert J. Mohr, 018-16-6224, have been a member in good standing of Masters, Mates and Pilots since early in 1944, and have not been a member of any other sea going Union during that time. I hold a Master's license, sixth issue, and have sailed continuously, with the exception of the years from 1957-1961, in all LDO rates and Master.

While ashore during this period I served as elected patrolman for the Port of Baltimore. Those who were members at that time will remember that the ships and ship's pay offs were always covered. Since I left, the waterfront has been neglected as to visitations and an official of Masters, Mates and Pilots aboard a vessel is a rare sight.

If elected, I will resume coverage of the waterfront as soon as possible, in an attempt to keep the membership informed of the current happenings in the Union, settle beefs at payoff (the proper time) and work towards a goal that will help restore the MM&P good name, which has been so badly tarnished as of late.

Charles M. Snow

I am a candidate for Assistant Port Agent, Port of Baltimore, I am now serving as Executive Assistant Port Agent in Baltimore, but that position is being abolished. As APA I want to continue to give you the same representation as I have in the past and will do so to the best of my ability. Make sure you are a VOTER. Election of officers is the most important referendum in our union. Do not treat it lightly; there is too much at stake. If we are to continue to have fruitful employment and decent working conditions, we must bear down together on the vital issues and not get sidetracked down the road of petty grievances.

In my opinion, the present International administration has brought about the type of structure that will allow us to grow and prosper. Bear in mind that the future of the MM&P is in the hands of its membership and any constructive move made by its leaders is only as good as the backing it will get from the members. You, the member, will decide the future of the organization. I request, through your vote, to be part of that future. Vote for officials who have done the job and made our union an outstanding one.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

John Q. Conrad

As a Sailing member of the Masters, Mates and Pilots with over twenty years experience and a valid Master license issue 4-7, I feel that even though we have made considerable progress in the last few years, the mmebership is concerned with several important issues:

1. Communication — knowing what is happening.
2. Pension improvements and safeguards.
3. Leadership responsiveness to the needs and desires of the members.

As Assistant Port Agent I will be dedicated to a program that will emphasize improvements in each of these three areas. Specific improvements that I will push for are: 1. a local newsletter to get the word out and keep the members in touch. 2. improved funding of our pension with a study of the possibility of revising the rules to permit earlier eligibility for benefits. This might have the result of improving the advancement opportunities of the younger members. 3. Timely utilization of the benefits provided by the Pension Reform Bill just passed by the Senate. 4. Shipping rule changes to improve advancement opportunities for younger members. 5. Review of the organizational rules with a view to limiting the tenure in any particular office to a reasonable number of terms.

Willie R. Ray

Member of Organization since 1958. Sailed Tankers and Freighters in various capacities. Strike clearances for all strikes. Strike committee Port of Baltimore.

I shall fight to restore union meetings each month. To keep members more informed. Allow members to have an active part and voice in all major decisions and policies in our great Organization.

I shall fight for 200 days for a years pension credits.

Final powers in membership. Officials accountable to Membership. All salaries to be ratified by the membership.

Improved service to members aboard ship. Restore Honest Elections. Day mates for all fast turnaround vessels.

Martin L. Schultz

I am a candidate for Assistant Port Agent — Baltimore, and have been a member of MM&P for the past 18 years. I am a graduate of the Federal Maritime Academy — age: 39 — have sailed in all licensed capacities, including Master, and presently hold a 3-6 Master's license, with pilotage. I am confident that I can discharge all duties placed in my hands and will actively strive for consistent and adequate representation of the membership in the Port of Baltimore and environs.

At present — as in many previous elections — the entire membership is enulfed with a deluge of propaganda, half-truths, and inuendos. Ironically, none of these relate to the pressing issues we face today. No union can long stand unnecessary dissention and internal strife. The time is NOW — to decide whom you wish to carry on the excellent work already started by the present International administration. Don't let your dollars and votes go to waste; elect officers who make your beef their beef!!! Do not allow apathy to win this election.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

2093a

NORFOLK—Port Agent

William K. Beach

Joined Masters, Mates & Pilots in 1946, have been a member in good standing since that time; License Issue 4-7, expires June 1977.

In 1961, I was elected Patrolman, Port of Norfolk, in April 1966, was appointed Acting Agent until a special election could be held, at that time, I was elected Agent for the Port of Norfolk and have been re-elected Agent in every election since that time. Prior to being elected an Official in the Port of Norfolk, over a period of years, I served on various committees in this Port; since 1962, I have attended all conventions and participated in negotiations.

I will continue to enforce the contract and handle all grievances efficiently and honestly; my goal has been and will continue to be, representation of the membership at all times; I feel that my past record speaks for itself.

If I am re-elected, I pledge to the membership that I will continue to serve all of you to the very best of my ability just as I have done in the past.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

NO PHOTO SUBMITTED

Jacob Spiegel

NO STATEMENT SUBMITTED

Edward W. Simmons

Age 51, member continuously for 29 years, presently Chief Mate on a bulk carrier. Served as Business Agent of Local 9, Norfolk Virginia from 1959 to April 1966, resigned prior to merger with Local 14 of Baltimore.

If elected I will work for:

Restoring membership meetings in all ports, with an international official attending at least once a year.

Complete financial disclosure of international receipts & disbursements mailed to each member annually.

Elimination of unnecessary officials.

Reduce 6% vacation assessment to 2%.

Commence talks immediately with all license groups to form a union of all officer groups.

Equal pensions for equal credits. Pensions to range from 400 to 700 dollars for 20 to 30 years.

Group term insurance of $50,000 per member under offshore contract, with family insurance.

30 days vacation annually for all officials. Reduce salaries of all officials by 10%. All officials be granted 60 days leave per year, without pay, to go to sea.

NORFOLK—Assistant Port Agent

Martin E. Pecil

I am now serving the Membership of the International Organization of Masters, Mates and Pilots in the Port of Norfolk, Virginia, as Assistant Port Agent and Plan Representative, designate. I have been a member of this Organization in good standing since 1952; Unlimited Master License, Issue 3-6, expires March 1979.

Prior to my becoming an official in the Port of Norfolk, with the exception of two years when I was inducted into the Military, I sailed continuously on MM&P Contracted Vessels in all licensed capacities including Chief Officer.

I am a strong advocate of unity and will work as I have in the past for the betterment of the Organization. From the on board representation and the personal contact that I make with the members, I feel that I have gained the experience and expertise to qualify me for this job.

If elected, I will continue to board vessels representing the members to the best of my ability as I have in the past.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

JACKSONVILLE—Port Agent

2095a

Marion C. N. Wells

I feel that it is time that our Union becomes a membership run union and that any important issues be voted on by the members and not put into effect and then be told about it.

I am for eliminating the 6% and raising the dues so that everyone is paying an equal amount.

I believe that officials' wages should be brought into line with seagoing wages and full financial disclosure, including any capital gains, should be a must for all officials.

I am not going to say "I will do this' or "I will do that" because I think that the membership is tired of being told "I am going to do." However, I will say that when I am elected and if the membership will back me, and vote on important issues, together we can get these, and other important issues, changed or eliminated.

Julian C. Allen

I am 56, came up through the foesle. Joined IOMM&P April, 1951. Sailed steady since in various capacities, 23 years pension credits. 13 years Tankers, 10 on Freighters. East and West Coast Freighters and Tankers. I'm familiar with todays Ships & working conditions. Have taken part in Union activities wherever and whenever possible. Will give you my best.

★

Allen C. Scott

Candidate for the office of Port Agent, Jacksonville and Convention Delegate, Offshore Division.

I have been a member of MM&P in continuous good standing since joining in 1944 with an original third mates license. I presently hold a valid license as Chief Mate, Oceans, issue No. 6-8. I have sailed in all capacities covered by my license.

As Port Agent for Jacksonville since the formation of the Offshore Division, I have worked in conjunction with the International officers to upgrade the services to members to that of a full service offshore division port.

I am serving as an organization trustee on MM&P Vacation Plan, MM&P Tanker Vacation plan and as an Alternate Trustee of MM&P Pension and Welfare plans.

I have served on International Negotiating Committees, the Offshore Executive Council, and have participated in major strikes and job actions since joining the organization.

As Convention Delegate, I have served on committees including Constitution, Executive Committee reports, Shipping Rules, Grievances and Appeals, Laws and Legislation and others.

There is no substitute for experience. As the experienced candidate for the office of Port Agent, Port of Jacksonville, I respectfully solicit your vote and support.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Charles O. Norstrand

Joined Local 88 in 1943, and am currently a member in good standing, with a valid Masters License, issue 6/8, dated 10/29/69; have sailed in all capacities, including Master. Served over seven (7) years as S.E. Representative at Hollywood, Fla., with complete Honesty and Integrity for all the Membership.

My greatest concern has been for the Welfare of the Membership, as I am and always will be a Member FIRST, with a dedication to the Memberships rights! Foremost among those rights; the Equal Opportunity of ALL Members to earn a decent living livelihood in their chosen profession.

My basic platform is the unequivocal recognition of the right of the Membership to DEMAND that their UNION and their elected Officials maintain their INTEGRITY and CREDIBILITY. I shall always be committed to the proposition that MASTERS, MATES and PILOTS, shall be a UNION of the Membership, by the Membership and for the Membership.

I fully endorse the "Platform of the Committee for Membership Unity"; and am Proud to be a Member of the Team. "Close the Credibility and Honesty Gap". Vote for Frank T. Scavo, International President; Gerald L. Johnson, International Vice President; Timothy A. Brown, International Secretary-Treasurer.

Owen R. Lewis

I hold Masters License 380828. Have been a continuous member of Masters, Mates and Pilots since 1944. Graduated from Fort Trumbull. I have sailed in every Capacity Deck Dept from Ordinary Seaman to Master. Originally Joined Local 88; after 29 days picketing own ship in 1946, transferred to Local 14, Baltimore. Transferred Local 4 in 1952. I have never held withdrawal card or been delinquent in membership. Fully aware of problems today confronting our organization and the great necessity of efficient leadership and Union Representatives, I pledge that if elected I shall devote myself to full time efforts at serving impartially all members of our organization. Greater economy and attention to the needs of SEA GOING MEMBERS of IOMM&P, as well as those ashore.

Well qualified to fill this post, I sincerely request the help and support of my many former shipmates and friends from Seattle to Boston, and all members to assist me in a successful election, that I may be of further service to the IOMM&P which I have respected and devoted the past 30 years.

E. C. Baker

If the IOMM&P is to continue as the largest Deck Officers union in the United States a two way communications system and full cooperation within the membership between the Officers who are sailing and those who are elected to represent us must be established.

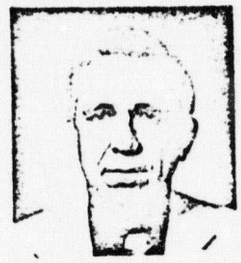
If we are to survive into the 21st century (when many of the current members will still be receiving benefits of the Organization, and others still sailing), all present and future members of the IOMM&P must work together.

The elected officials are the memberships' link to the guarantees provided by the Constitution, By-laws and working agreements of the IOMM&P.

I am 48 years old, have in excess of 25 years pension credits, all obtained on board IOMM&P contracted vessels, and have sailed in all capacities including Master.

To help insure the future of our Union I would like to represent you as your Port Agent in Jacksonville, Florida.

MOBILE—Port Agent



Francis E. Kyser

Since obtaining my first license in 1953, I have been a continuous member of the International Organization of Masters, Mates & Pilots. I have served as Port Agent for the Port of Mobile since the consolidation and subsequent election in 1971.

I served as Patrolman for two terms—1966-1971 under former Local No. 4. Following the consolidation, I ran unopposed for the office of Port Agent to which I was elected in 1971.

During my period of elective office, I have served as Convention Delegate and as a member of the Offshore Executive Board. I am dedicated to making our Union strong for all the membership, regardless of their licenses held and to continue the high standard of service to which our members are entitled.

I earnestly solicit your support in the tasks to be accomplished.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Walter J. Anderson

Qualifications: Chief Mates License, Unlimited. Sailed in all capacities covered by my license. Dry-Cargo and Tanker experience. Both Petroleum and Chemical. Experience in Labor Relations.

Views & Goals: Reinstate monthly membership meetings. Lower the quorum and encourage membership attendance. This is the real backbone of Union Democracy.

Compulsory 90 days duration for all referendums and assurance of honest elections.

An immediate reduction of Officials' salaries that will be equitable to the membership.

Eliminate severance pay for all Officials.

A fixed Dollar ceiling on pensions which will apply to all members, including Officials.

A cost of living increase for Pensioners with bi-annual adjustments.

If at all possible, reinstate the 200 days qualifying period for annual pension credits.

I believe a Union Official should be strong enough to keep always in mind, he is a servant of the members and not their master.

Your vote and support appreciated.

NEW ORLEANS—Port Agent

2097a

N. L. LaRocca

Have been an active member of the Organization since 1943 and in good standing.

Master, Oceans, Unlimited, Issue 4-8, dated 8-5-1971.

No paid elected official shall serve for more than two consecutive terms without a break in tenure. This shall not bar any elected official from seeking higher office.

Bring salaries of officials in parity with seagoing personnel.

Monthly business meetings to be held in all ports in order for the members to discuss and be kept informed of the activities within the organization.

Equalize pension payments based on monies paid in — not wages earned.

Sthingent safeguards for pension fund.

A vote for me will be a great stride to return the union to the membership. To be run in a democratic manner with the membership heard and fully informed.

I earnestly solicit your support and urge you to exercise your democratic right by voting. STAND UP AND BE COUNTED.

Cornelius F. Coyle

My qualifications are: An active member of I.O.M.M.&P. (formerly Local 15) in continued good standing since 1944; I hold a valid Ocean Unlimited License, Serial No. 44299, Issue 6-8; I have sailed all capacity with continued sea time.

I feel that my education and vast sea time qualify me to represent and to serve the entire membership in a competent and efficient manner as your Port Agent.

My views:

1. Reinstate Union Meetings. As to my knowledge, no meetings have been conducted in any of our Union Halls since the incumbents have chosen to elect O'Callahan as their leader.
2. Honest elections and referendum, with no package deals.
3. Equal pensions for equal contributions.
4. Cost of living increase for Pensioners with bi-annual adjustments.
5. Economize the dues and cost structure of the Union. Must be reevaluated to eliminate the 6% cost on gross vacation pay.

I EARNESTLY SOLICIT YOUR VOTE AND WILL APPRECIATE YOUR ACTIVE SUPPORT. VOTE THE ENTIRE M.D.U. AND WESTCOAST MATES COMMITTEE SLATE.

Richard M. Casselberry Jr.

I have been a member of the Organization since 1943 — sailed in various capacities and hold a valid U.S.C.G. License.

In 1965 I was appointed to Relief Patrolman by the Executive Board Ex-Local No. 15.

In 1966 I was elected 2nd Vice-President, Ex-Local 15, and in 1967 appointed by the Executive Board to Patrolman.

In 1969 I was elected 1st Vice-President, Ex-Local 15 and assumed duties both in the office and on the waterfront.

I am also an Alternate Trustee to the Pension and Welfare and Vacation Plans, and was an Alternate on the Negotiation Committee.

In 1971 I was elected Executive Assistant Port Agent, New Orleans, La., and now serve in that capacity.

Having served the Membership in all the above capacities, I feel I have the qualifications and needed experience to serve the Membership and the Organization as Port Agent, I.O.M.M.&P., for the Port of New Orleans.

I earnestly solicit your vote for Port Agent, Port of New Orleans, La., and will sincerely exert all efforts, labor and knowledge for the betterment of the Organization and advantages for the Membership.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

2098a

NEW ORLEANS—Assistant Port Agent

Claude Parham

I, Claude E. Parham, have been properly nominated and have accepted the nomination to be a candidate for the office of Assistant Port Agent, I.O.M.M.&P., for the Port of New Orleans, La.

I joined the Masters, Mates and Pilots in 1945 and was an active sea-going member until I was appointed Dispatcher for the Port of New Orleans.

During the last two and one-half years, I have been working in the Port Office and I have found you just cannot pick up and start doing a job. You have to learn the many problems with the members going to sea and their family left at home.

I assign the members to jobs and settle beefs, which are just a few of the things that are connected with maintaining a good Port Office representing the members.

I earnestly solicit your vote for Assistant Port Agent, for the Port of New Orleans, La., and if elected, will continue to give the best and most efficient service which is possible.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

NO PHOTO SUBMITTED

Manfred Osborn

I have been nominated for the office of Assistant Port Agent of Masters, Mates & Pilots for NOLA.

If I win this election, I will do my best to represent the membership.

Michael E. Pscenicka

I am backed by the following organizations, Members for a Democratic Union (MDU) and the West Coast Mates Committee.

I joined the organization in 1951, former local 15 New Orleans and held book number 1871, and have been in continuous good standing at all times. Have valid license No. 442847, dated March 12, 1973 issue 4-7. I have sailed in the capacities from 3rd mate to chief mate.

I am a strong advocate for honest elections and referendums and the restoration of union meetings. Also feel that the 6% assessment of vacation pay was unnecessary, instead various other areas for economizing were available.

When elected will serve you the members in a competent manner at all times.

I actively seek and solicit your vote and support and urge you to vote for the entire MDU and West Coast Mates Committee's Candidates.

Norman H. Fischer

I, Norman H. Fischer, in accord of my membership in the organization of Masters, Mates & Pilots for twenty nine years of a thirty six year career of unbroken time of going to sea.

I, being a member of good standing for the above number of years acknowledge requirements of the offshore division By-laws and my attention to Article IV and V, as directed.

Holder of a Master's License, 5-8, serial Number, 451863, issued Nov. 30, 1972, have sailed intensively gross tonnage, in all Mate's capacities and positions and fraternally work to the contracts and the by-laws of the organization and to the expansion, growth and soundness of all programs, under the direction of the International Organization.

I am dedicated to order and good leadership, stand firm in a good workable contract for all membership and the substansive benefits of the good programs of Pension/Welfare, which are the rewards of a good strong union.

A. Reid, Jr.

I, Al Reid, Jr., solicit your vote for Assistant Port Agent for the Port of New Orleans, La., I.O.M.M.&P.

I have been a Trustee of Local 15 — then 2nd Vice-President and elected Assistant Port Agent in 1971 for the Port of New Orleans.

Am a member in good standing of the Masters, Mates and Pilots since 1952 and hold a valid U.S.C.G. License.

My record and actions in these various positions and services to the members who have called upon me, speak for itself and I will, if elected, continue to devote myself to the members and the Organization.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Leon J. Maas, Sr.

I have been a member of the I.O.M.M.&P. since 6-5-63. The License I hold is Chief Mate Unlimited. Last berth Chief Mate relief SS DELTA NORTE (Lash). I have experience on Tankers, Freighters, Seabee's and Nighthawking. I have (am) been a working member of our union, stood picket duty New York (General strike), and New Orleans (Runaway Flag). I feel that I understand the needs of all my Union Brothers.

My platform is "I will represent every brother to the best of my ability, and enforce the contract, rules and regulations to all members the same. I am my own Man."

NEW ORLEANS—Assistant Port Agent

Herman Dean Hillman

I have been a member of the Organization since 1951. Age 46. Married 23 years, father of two children.

I have sailed as 3rd, 2nd, and Ch. Mate on all types of ships. I believe in two terms for all officials and then out.

I am against the "SLUSH FUND." all "UNCOVERED" time to go to the members — not the officials.

I am for having a 90 day "REFERENDUM" on the 6% of GROSS VACATION PAY.

I know what the members need — more time off in port — Day Mates for all vessels between 0800-1600 — not just Nite Mates. All *port relief officer* jobs to be called until the hall closes at 4:00 P.M., weekdays, not just until 2:00 P.M.

I am an independent and belong to no group or clique but will vote for the members' interest — not against.

I am strictly against our officials trying to force the members to go to school in Baltimore because if they are re-elected this is what can happen or else you don't ship out until you have been to school, *think about this*, no school, no job.

Remember — I am for the members — not against them — "I AM A MEMBER."

PHOTO TECHNICALLY DEFICIENT

Milton H. Gonzales

Having accepted the nomination for the office of Assistant Port Agent, New Orleans, and Convention Delegate, I.O.M.M.&P. I wish to state the following:

I hold a valid Masters license No. 445241, issue 6-10, I have been a member in good standing of the I.O.M.M.&P. for over thirty years.

If elected my intentions are to endeavor to find a means to intensify the interest of the seagoing membership in all phases of our union, to keep the seagoing membership well informed of all current and PROPOSED plans affecting us, and to encourage all members to voice their opinions. Looking to this, I am strongly in favor for a return to regular meetings, which to all intents and purposes have been abolished, recognizing the fact that we are not all PARLIAMENTARIANS.

For efficiency and economy in the administration of our union affairs, do away with: CRONYISM AND/OR NEPOTISM wherever found. I am strongly in favor of limited tenure for all elected officers, with the proviso: GO UP OR GO OUT.

Finally, a truly Democratic Union, not for just a few, but for all of us together.

Vote for the people you feel are the most sincere, please vote.

John M. Smith

MY QUALIFICATIONS

I served four (4) years in the Armed Forces during World War Two, honorably discharged, began my sea-going career in 1946, obtained my original Third Mates License 1962, joined I.O.M M.&.P. formerly Local 15, 1962, and in continued good standing to date, I hold a Masters License Ocean Unlimited, sail all capacity, attended Tulane University for 1½ years, Business Administration, I feel my education and sea-time qualify me to serve the entire membership in a competent and efficient manner, as your Assistant Port Agent.

MY VIEWS

1. As your Convention Delegate, will propose to amend the Constitution to read "No Union Official shall serve more then two (2) terms in office, either they run for higher office, or out they must go.

2. Reinstate membership union monthly meetings at all ports where hiring halls are maintained.

3. Officials salaries to be related to shipboard wage scale.

4. All referendums to be voted on in ninety (90) days, no quickies and no package deals, where we must vote "YES" or "NO" on a long list of proposals.

5. Cost-of-living increase for pensioners with bi-annual adjustments. Remember brothers we are enjoying the fruits of the old-timers' labor.

I earnestly solicit your vote and will appreciate your active support, together brothers we can help bring a new era in the I.O.M.M.&P.

Jose Morales

I, Capt. Jose A. Morales, earnestly solicit your vote for Assistant Port Agent, Port of New Orleans, La.

Trustee for Local No. 15, New Orleans, La., since 1969. Appointed Patrolman 1970. My efforts and record will indicate my performance in this capacity.

Member in good standing of the Masters, Mates and Pilots Organization since 1945. Qualifications: Master of Steam and Motor Vessels (any gross tonnage, any ocean). Radar Observer, First Class Pilot of Mississippi River, from Huey P. Long Bridge, La., to sea, via South or Southwest Passes. Inner Harbor Navigational Canal from Lake Pontchartrain, La., to Mississippi River. First Class Pilot between Fairfield Light and 35 Mile Point, La.

Education: Redemptorist High School. Graduate of Pass Christian Merchant Marine Cadet Corps, and Page's Navigational Upgrade Courses.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

PORT ARTHUR (Nederland)—Port Agent

Ford Cummings

Active sea going member (formerly Local 20) Tanker-Dry Cargo experience. Last employment 8-27-73/3-5-74 Waterman C-3, Carrier Dove, permanent chief mate.

ISSUES

A. *Dictatorship-Membership Control*
B. *Bankruptcy-Economy*

PLATFORM

A. *Membership Control*

Enforce shipping rules, rewrite Constitution, restore meetings, access to publication, honest elections, 90 day voting period all issues. Financial disclosure by elected Officials and Employees including Mate's school and Pension plan.

B. *Economy*

Eliminate 6 percent vacation assessment, reduce Official's and Employee's salaries to conform to an economy budget voted and approved by the membership. Protect our marginal Pension Plan from further law suits by allowing a membership vote upon the present inequities. Every Official's expense account to be approved at a membership meeting. Take legal action to recover any illegally withheld severance pay funds. (Local 20 Officials received severance pay.) Organize the unorganized.

Your vote and influence will be appreciated. If elected pledge to remain in office maximum two terms; make full financial disclosure and reveal income tax returns.

James R. Giblin

I have served the membership as Port Agent, Port Arthur, since the consolidation in 1971. I am responsible for managing the union activities in the area including Port Arthur, Beaumont and Lake Charles, Louisiana.

I joined the former Local 20 in 1945, the same year I obtained my first license. I presently hold a Masters License (5-8) issued in February of 1971.

Prior to the consolidation, I served from 1966-1970 as Assistant Port Agent in Houston. My experience in the office for which I am seeking reelection, and my reputation for honest service of the membership, will be steadfastly adhered to. During my term of service as a union official, I have boarded hundreds of ships, both freighter and tankers. I am eminently aware of the demands of the membership in regard to both contracts and working conditions.

If elected, I will work with the International officials to stop the encroachment of AMO and continue our work to provide ongoing job security for our members.

I urge you to vote for experienced International and Local Port officials with proven ability and dedicated to the task of making the Masters, Mastes and Pilots a stronger Labor Organization.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Charles P. Gaines

Have been a member in good standing since December 1951. Have sailed in every capacity as a Licensed Deck Officer, including Master. Have valid Masters License No. 425097 Issue 2-6, dated April 9, 1973.

Thanks to somebody, your vote, if elected, will consider the winning of this election the best Christmas present any seaman could expect. Why not! My pay will almost double along with my pension. Weekends off, including numerous holidays, Juneteen day, etc.

In fact I will be so grateful, that I promise not to run any shoreside businesses while in office, other than the business of being Port Agent or the International Organization.

I am not disqualiffied as a candidate by the Labor Management Reporting and Disclosure act of 1959.

HOUSTON—Port Agent

Robert N. Polumbo

I have served as Port Agent, Port of Houston, since my election in 1959. I was reelected in all Local elections including the election in 1971 following consolidation.

I hold a valid license issue 5-6 5-19-71. My original license was issued in August of 1945, at which time I joined Local 15, transferring in 1953 to Local 20.

I have been a delegate to all International conventions since 1958 and have represented the membership on all negotiating committees since 1962.

I have served all our members equally and fairly as an elected Union official and Alternate Trustee of the MM&P Pension, Welfare and Vacation Plans.

During the period of my service as Port Agent, Houston has become one of the fastest growing ports in our organization. I pledge to continue to represent all our members honestly and fairly. When reelected, I will continue to use the experience I have gained while serving as your representative and will never violate your trust.

I solicit your vote and support for the present incumbent International officials. This is your union; protect it by continuing in office your experienced and proven officials.

Your vote is a confidence I will never violate.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Paul S. Wilkins

Dedicated to this Profession for over 20 years. Valid Lic. No. 436127, 8-3-72, No. 5-5. Joined 1964. Always in good standing.

Experienced on all types of cargo and tanker vessels; under both East and West coast contracts.

I am fully aware of the many internal and external problems being faced by the membership today; I have the current experience and knowledge to cope effectively with them and want to represent you in these offices.

I am determined to form a strongly united, fully informed membership!

We need an Economy-minded, Positive administration, with Credibility and Integrity, working or the best interests of the membership and organization.

We need efficiency in our overall operation, improvement of our contract and conditions, increased job security, and stringent safeguards for our Guaranteed Pensions.

I need your VOTE for Port Agent and Convention Delegate to voice and vote the will of the majority.

My allegiance is to the members of this Union only, and not to any group, in or out of office, but I will cooperate with anyone who sincerely wants to improve our organization.

For Honest, Reliable, Competent, Professional Representation, I respectfully solicit your VOTE and SUPPORT!

HOUSTON—Assistant Port Agent

David Haa

A graduate of Maine Maritime Academy '58 and the High-Schoolship John W. Brown, I have been a member in good standing since joining the I.O.M.M.&P. in 1959. Presently hold an unlimited Chief Mate's License, Issue 2-4.

Have varied and extensive experience on tankers, dry-cargo and containerships and am familiar with Lash vessel operations and the busy port of Houston, Texas. Presently sailing Chief Mate on containerships for the past two years, and believe I have the on-board experience necessary for which I am a candidate.

I support the entire platform of the Members for a Democratic Union and am in favor of limited tenure of office for all officials. Cast your vote for honesty and integrity and a return to membership participation in union affairs.

If elected, I will perform my duties with the determination and dedication to the best interest of the sea-going membership.

Thomas D. Neumann

I seek your vote and support for these offices. I will continue to serve the membership equally and diligently. I will do everything in my power to effect the changes desired by the membership — this is the duty and responsibility of every elected official and I have, and will continue, to work on behalf of all members of the I.O.M.M.&P. — Offshore Division.

I am a graduate of the United States Merchant Marine Academy and have been a member of the I.O.M.M.&P. since 1966. I first worked for the Organization as a Field Representative for former Local 20 in 1970 and have been Assistant Port Agent/Houston since 1971. As an Assistant Port Agent my primary duties have been of direct and daily service to the membership in the areas of contract and shipping rules enforcement and general service in the affairs of operating the Houston hall. With your vote and confidence I will give you, the membership, the representation you need in this office to the best of my ability.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Clyde J. Smith

Graduated from Kings Point in 1946 with original Third Mate's license. Joined Local 88 in April 1946. Transferred to Local 20, fourth quarter 1946. Was on withdrawal 1952 thru 1956. Appointed Asst. Port Agent in Houston on June 3, 1974. Hold unlimited Master's license, Issue 3-9, dated May 10, 1974.

Licensed Deck Officer experience on board Tankers, Bulk Carriers, Break-bulk Containers. Have sailed all ratings including Master.

Become a full member — take an interest in your Union — let your voice be heard, assume your responsibility — VOTE.

I will serve the membership equally and diligently, to the best of my ability in accordance with the adopted Offshore Division By-Laws, Shipping Rules, and International Constitution and Contracts ratified by the membership.

Vote for experienced I.O.M.M.&P. Officials with proven ability and integrity, dedicated to the task of continued improvement of the I.O.M.M.&P.

Raymond E. Massey

I, Raymond E. Massey, joined the International Organization of Masters, Mates & Pilots Offshore Division July 1, 1967. I hold a valid Second Mates License, issue number 1-2, dated June 29, 1972.

I have never been suspended or dropped at any time while I have been a member of this Organization.

I have never belonged to any Subordinate bodies of this Organization.

I, Raymond E. Massey, am well aware of the duties and obligations to all the members of the Offshore Division that the Office of Assistant Port Agent, Port of Houston demands, even though I would not be in a union policy making position. If you elect me to this office, I will do my best to fulfill the desires, duties and obligations of the position as your official. I will be fair and truthfull toward all the members as their representative with the members best interest at heart and always in mind when contract disputes arise and within the limits of my authority as Assistant Port Agent, Port of Houston, will be honest to the membership in the everyday business of running the Union Hall.

I NEED YOUR VOTE!!!

Jack W. Raimond

I am Jack Warner Raimond, a continuous member since May 1944. My license is unlimited Master, issue 5-8. I have sailed mostly as Chief Mate on dry cargo vessels, but have sailed as Third, Second, and Chief Mate on tankships. I am an independent candidate or Assistant Port Agent of Houston, and Convention Delegate, and if elected shall endeavor to serve in these capacities to the best interests of all the membership, not just a privileged few. I realize it is impossible to please everyone on all issues, but many things need changing to provide more equitable benefits of membership.

Among those needing revision: Number of, and time of job calls, as different ports have different needs. A continuing assessment of how much employment we have for our membership, and enforcing job turnover so there is an equitable share of the available work. An actuarial study of the pension plan, with a more realistic approach to the size of monthly payments, with a ceiling, linked possibly to credits only, with a revision of the method used in determining credits, and time required for credits. There must be a more equitable method to determine a retiree's fair share.

Thomas L. Gunter

I intend to serve but one term of office; and this for the specific purpose of working toward the many reforms needed in the structure and administration of our union. Then I can return to sea knowing that the interests of the seagoing members will be first in our councils.

Major reforms and reorganization are necessary to save us from the result of many years of the incumbent administration; and assure that similar corruption does not occur in future. A considerable task, but one which I am willing to undertake.

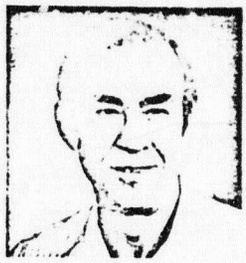
Generally, I agree with the MDU proposals, but will represent the will of the majority on any specific issue. I will work with any individual or group with the welfare of the membership in mind.

The most urgent issue before us is the protection of our retirement funds from raids and dishonest administration.

I have experience on all type vessels; hold an unlimited Master's license; and am a graduate of Kings Point.

BEST COPY AVAILABLE

HOUSTON—Assistant Port Agent



Samuel P. Knox

"At present, I am Master of the Tanker NORTHFIELD (Keystone) enroute to India with grain. Therefore, can only ask this one time for your support. License: Unlimited Master, Any Oceans, First Class Pilot Galveston Bar to Houston Turning Basin. Renew in January, 1975 for Issue 7-10. My age is 58. 45 years in Merchant Marine, past 34 on license. Experience, all capacities except Master of freighters. Good standing in MM&P since joining. My home is in Houston and I pledge myself to be available to the membership at any and all times for the service that you are paying for. Being a seafarer has been my life. I love the sea but this is the chance to be close to my precious wife for a while, after, 10, this many years of separation. I will appreciate your vote and your support. God love each one of you."

NO PHOTO SUBMITTED

Donald J. Schneider

"A Member Since 1945"

"A Master's License (Issue 4-6)"

"Familiar with I.O.M.M.&P. Contract"

"A Resident of Houston, Texas (13 years)"

"A Promise of Integrity in Office"

Any consideration given to the above will be appreciated.

NO PHOTO SUBMITTED

Thomas L. Schneider

NO STATEMENT SUBMITTED

GALVESTON—Assistant Port Agent

Robert F. Wagner

I, Robert F. Wagner, accept the nomination for Assistant Port Agent, Port of Galveston, Texas. I am not disqualified by the Labor-Management Disclosure Act of 1959, nor am I to be disqualified for any violation of the Constitution of the I.O.M.M.&P.

My number is 019-14-1792, I hold a valid 2nd Mates License No. 445048, 3-4 Issue. It was issued in Galveston on January 17, 1974.

I hold no personal animosity towards anyone holding office, but am displeased with the performance of them. It is time for a change, and time to break up a dynasty.

Changes needed: Get rid of Garmatz, reason —Money saved!!!- Correspondence Courses for Upgrading from MITAG — Abolish Lag Time — Not suspend it temporarily. No Appointed Jobs — Elected only. Bring back Group System — Increase same. One job call at 1300 daily. No more than 2 terms of office, then back to sea for a year discharge before being a candidate again.

The membership should not be too complacent, and VOTE whenever an election or resolution comes up on any ballot or referendum. Only the above can be done at Conventions or through special resolution adopted at Meetings.

Paul D. Hermann, Jr.

Since 1 January 1973, I have been serving the Offshore Division membership in the capacity of Assistant Port Agent in the Port of Galveston, gaining experience and becoming familiar with the contract, shipping rules, etc.

Prior to this, I was employed aboard tankers for a year, learning the difference between tankers and dry cargo vessels.

Before that I sailed as 3rd, 2nd and Chief Mate aboard various dry cargo ships.

I have a B.S. degree in Marine Transportation from Texas A&M University and an unlimited Chief Mate's license.

Having only been ashore for about two years, I have not forgotten many of the problems that arise aboard ship.

I hope to continue to serve the membership for the coming term of office in my present capacity and also as Convention Delegate.

All members eligible to vote in this election should do so in order to insure that the results are the wishes of the majority of the membership in it's entirety. Each member should care enough about the affairs of his union to participate in the election of Officers.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Nerod F. Hall

Received my Third Mates license in June 1943 now hold valid Masters License (issue 4-8) have been active in my able profession never having worked ashore. Having sailed and lived in all capacities and am aware of the problems encountered in all grades and familiar with the contract. I am strongly opposed to the perpetuation in office of any official, and pledge my efforts to a length of office not to exceed two terms.

Change the present policy that a pensioner be allowed to work in the Mineral and Oil industry without forfeiting his pension. I am for the establishment of an oil and mineral division of the Master Mates & Pilots.

WILMINGTON, CAL.—Asst. Port Agent

George Valentine

In accordance with prevailing regulations that only facts be submitted in this statement, I submit the following for information:

Fact 1. I have been a member of MM&P since 1943 except for 3 years as Investigator for MSTS in San Francisco.

Fact 2. Have held all licenses from Motor Boat Operator to Master Ocean and worked in all licensed positions including Pilot and Master.

Fact 3. I have worked the licensed deck jobs on every type of vessel under our jurisdiction except dredges & cable ships. This includes, bulk self-unloaders, tankers, freighters and passenger ships.

Fact 4. Graduated from Seattle University with BA in Economics and Business in 1954. Since then have completed available formal studies in, Cargo Loading and Stability, various safety courses, including Fire Control, Damage Control, Chemical & Gas Safety, and Rules of the Road Interpretation & Practice.

Fact 5. I receive no pension emmoulments or fees from any source. My sole income is derived from wages from shipboard employment under MM&P jurisdiction.

Fact 6. I am not sponsored by either the incumbent regime or the professional dissenters.

Fact 7. I will work unfettered for your interests.

Henry C. Walther ★

I have been a member of this Organization since 1944, hold a valid Master's license with several pilotage endorsements, issue 6-9. I have served in all licensed deck officer capacities including Master

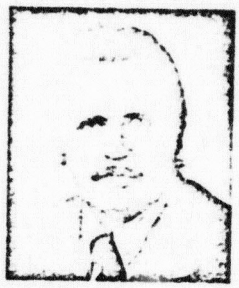
Since July, 1969, I have continuously served as Wilmington, California, Representative Pro-Tem, elected Assistant Port Agent in January 1971, and Port Agent in May, 1972 in which capacity I still serve.

Progress has changed the required skills in our industry and to survive we must meet the challenges of advanced technology. Our organization offers the best to upgrade these skills. Take advantage of MITAGS!

I fully support the programs of our leadership for a strong union, employment for those who want to work under a contract first in any industry, with the highest in vacation, welfare and pension benefits.

When elected, service to the membership under these programs will be my continued dedication.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.



Frank Burke

I am Frank Burke, member of, and endorsed by the "West Coast Mates' Committee" and the "Members for a Democratic Union" for your Port Agent, Wilmington.

Since the consolidation of the "locals" and the new Constitution, I have been an outspoken critic of the administration and it's policies. I have been co-author and distributor of many controversial Newsletters.

If elected, I will initiate and support the following program: Full Employment by attaining a realistic "Job Ratio," an aggressive Organizing Program to obtain Contracts with new companies (Tankers being built), Offshore Oil Industry, Tuna Fleet (130 vessels with Licensed Navigators), etc.

Revitalization of the Pension Plan to include a "Coast of Living Clause," raising the minimum pension considerably, return to 200 days for a qualifying year.

Fiscal Responsibility to include a detailed audit, available to the Membership; a projected budget submitted for Membership approval, and lessening or elimination of 6% Vacation Assessment, as available Financial Reports do not warrant doubling the Organization's Income.

These "Basics" plus revitalizing the Constitution and By-Laws to restore the "Balance of Power" to the Membership are the primary aims of myself and the other W.C.M. and M.D.U. candidates.

I joined the Organization 6-20-65, hold valid Chief Mate's License 2-3, issued 2-14-73 SS No. 559 22 5093.

WILMINGTON, CAL.—Port Agent

Nick Barbara

I have been a member of this Organization since 1940. Hold a valid Masters License 7-10 with Pilotage Endorsements. Having served in all licensed deck capacities, including Master.

I have been in office as Assistant Port Agent for one term and again seeking your consideration and vote for another term as Assistant Port Agent for the Port of Wilmington, California.

During my term in office, I have made most of the ships that arrive in this port, the ships that were not made was due to duties in the office. The office log shows between 20-30 ships a month are made either for payoffs or routine visit.

I believe that I have the background and experience to carry on the requirements and responsibility of this office and to keep providing the services that the membership expects from its officials.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

2107a

SAN FRANCISCO—Exec. Asst. Port Agent

George M. Tuttle

Continuous member of International Organization of Masters, Mates and Pilots since June 1940; in former Local 90 and its successor, the Offshore Division.

Master, any Gross Tons, Ocean: Radar Observer No. 332985 renewed at Honolulu, Hi., March 5, 1970, Issue 6-9.

Have sailed in all Licensed Deck Officer ratings to and including Master. 1970 came Ashore for the Organization; although sailing as permanent Licensed Deck Officer I was also the elected First Vice-President of Local 90, relieving on a Temporary Basis the President and/or Executive Vice-President due to illness and/or vacation and performed their respective duties.

1971 Assistant Port Agent No. 1 (San Francisco).

1972 to present, Executive Assistant Port Agent (San Francisco) and full trustee of MMP/PMA Pension, Welfare and Vacations Plans serving total membership and their dependents.

Expanded my knowledge of Union affairs by attending University of San Francisco Labor-Management School (Evening Division) 1968 through 1971 successfully completing requirements for courses taken.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

William F. White

Wm. White 58 — Joined MM&P, San Francisco in 1943 and belonged to no other union since.

Suspended July 1949 for delinquent dues, reinstated January 1951 upon payment of all back dues and fine.

As licensed or unlicensed, I have sailed on most types of vessels and as sixth issue Master, in all licensed capacities.

I am not a member of any groups, though I agree with many of their candidates and objectives.

If you are satisfied with the way your union has been run, by all means re-elect the incumbents, if not, you must elect enough new blood to make possible the changes you want.

Whatever weight my position entails, it will be pledged, for required attendance, one meeting a month for members ashore, equal pensions for equal time and contributions and a reduction in union operating expenses.

I wish to examine the true cost of the school to the membership and will support efforts to allow the membership to decide on the permanence of the I.L.A. merger.

I also wish to examine and make available all information concerning the so-called Special Fund. How much, who controls it and what restrictions, if any, on its uses.

SAN FRANCISCO—Assistant Port Agent

NO PHOTO SUBMITTED

Michael Kay

NO STATEMENT SUBMITTED

John B. Admire

I John B. Achmire have been a member of the union in good standing since November 8, 1944. I hold a Masters license unlimited and have sailed as Master, Chief Mate, Second Mate and Third Mate on freighter also have sailed as Chief Mate, Second Mate and Third Mate on both tankers and Container Vessels.

I have a knowledge therefore of the things that we are faced with in the enforcement of the agreement.

I believe in full enforcement of the agreement and also in working for better conditions on board ship and pension and welfare benefits.

I was acting patrolman in San Francisco for some eight months in 1959 and 1960. I therefore have a working knowledge of the job required. If elected I will try to do the job in a manner that is correct and satisfactory to all the memberships.

David F. York

I have been a continuous member of the International Organization of Masters, Mates and Pilots since 1946.

Elected Assistant Port Agent, San Francisco for term commencing January 1, 1972. During the ensuing years have resolved just grievances, prepared exhibits to be presented to Licensed Personnel Board Meetings on those items which remained in dispute and represented fully those members involved on a personal basis. The above involved all vessels under contract and were boarded wherever berthed from San Francisco to Stockholm/Sacramento, as well as fly-in pay-offs.

The know-how required or this position was supplmented by my attendance of night courses in Labor Management at the University of San Francisco.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Edward M. Caldwell

A continuous member of I.O.M.M.&P. since receiving my original License in 1944, actively sailing aboard various types of contract vessels until my election as San Francisco Patrolman in 1968.

Re-elected Patrolman in 1970 and Assistant Port Agent in 1972.

The duties of Assistant Port Agent are varied but the primary function is enforcement of our Contracts and Shipping Rules and to that end, in 1968, I initiated the policy of representation aboard ship at pay-offs in the San Francisco area, resulting in vastly improved Contract enforcement.

To increase my knowledge and effectiveness in the daily administration of union affairs, I enrolled in night classes at the University of San Francisco, completing various Labor-Management courses, including Labor Law, Arbitration Procedures and Collective Bargaining clauses.

I have experience at all levels of Contract Enforcement having served on many Licensed Personnel Board and have successfully argued contract disputes before the Arbitrator.

I stand on my past record of service to the membership and the expertise acquired through my experience and training in seeking your vote to continue to represent you as San Francisco Assistant Port Agent.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Lloyd Martin

I have been a continuous active member of the Masters, Mates & Pilots since joining in 1944 upon receiving my original License. I have sailed all licensed capacities from Junior Third Mate to Chief Mate in all the major trade routes of world commerce and have a vast understanding of the needs, conditions of employment and future goals of Licensed Deck Officers.

From November 1, 1968 I served as San Francisco Patrolman (Pro Tem), was elected as second San Francisco Patrolman in the special election of 1970 and assumed the role of San Francisco Assistant Port Agent on January 1, 1971 with the creation of the Offshore Division and elected to the post of Assistant Port Agent No. 1 in the 1972 Election.

I have completed all applicable courses of the University of San Francisco Labor Management Night School.

Having served on the 1972 Negotiating Committee, Dry Cargo and Tanker, I have a complete understanding of the Contract's intent and therefore am very effective in Contract enforcement.

I have served as Alternate Trustee to the Training Plan for two years.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

Richard Bara

Graduated from Kings Point in 1956. Joined Local 15 (New Orleans), 1956. Transferred to Local 90 (West Coast), 1961. Absorbed into Offshore Division 1970-1971.

Active duty, U.S.N., 1956-1958.

Sailed off the West Coast since 1958. (Permanent, Relief, Port Relief, and 180-day). Sailed 3rd Mate, 2nd Mate, and Chief Mate. Present license: Chief Mate, 2-A.

I started "getting involved" in MM&P when I served on the San Francisco "Committee to Investigate Pensions" in 1961. Since then I have served on many San Francisco port committees: By-Laws, Constitution Revision; Agreement Revision; ERC's and others. Also Joint Classification Committees and Coastwise By-Laws Committees.

Local 90 delegate to International Convention, 1966. (Portland, Ore.)

Rank and File member of Local 90 Coastwise Negotiating Committee in 1965 and 1969.

San Francisco Patrolman Pro-tem and Temporary Patrolman, March 1968 to October 1968.

I think the primary job of the Assistant Port Agent in the major ports is "Patrolman." I also think, "A contract is as good as its enforcement." As San Francisco APA Patrolman, I pledge to: "Make the ships," "enforce the contract," "settle beefs," and "inform the members."

PORTLAND—Port Agent

2109a

James Haverfield

Dues paying member of Local 90 and Offshore Division for 20 years.

I believe in Limited Tenure, two terms in office then a return to sea.

Cost-of-living clause in all future contracts, this to include pensions. U.S. News & World Report reported that "Dock workers at North Atlantic Ports won three-year pay increase of 30 per cent plus cost-of-living raises."

Equal pension for equal contributions. Reduce requirement for a quarters pension credit to 60 days. Upon applying or retirement total all days worked but not credited and allow 50 per cent of total days in additional pension credits.

The 1973 Offshore Division LM-2 report showed Total Receipts $2,895,811. Total Disbursements $2,900,354. This would make a deficit of $4,543 before the dues increase. Was an increase of this magnitude needed for a $4,543 deficit??? I believe we should have a thorough review of all income and expenses with a corresponding and immediate reduction in the 6 per cent of gross vacation pay.

Charles W. Wallace

I, Charles W. Wallace, am running for re-election as Port Agent, Portland, Oregon.

I was first elected to this job in 1971 to take Captain Caldwell's place when he moved up to Executive Vice-President.

Since holding this job, I feel that I have done a good job servicing both East and West Coast vessels — Dry Cargo and Tankers, successfully handling many "beefs" for our members from all over the country.

I feel that in the last three years, this Union has made great strides forward and is beyond a doubt, the best Union in the Maritime industry.

If re-elected, I intend to see that this port and the vessels calling here, continue to receive the same high-standard of service they have had in the past.

Your support will be greatly appreciated.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

2110a

SEATTLE—Port Agent

Frank Cain

Originally joined Local 90 in 1945. Reinstated 1951. Active seagoing member since. Sailed 2nd and 3rd Mate on Dry Cargo, Tankers and Van Ships both East and West Coasts. Have always shipped for Board in Union Hall. Have served on negotiating and By-Laws Committees, also on various local committees.

Was co-author of rotary shipping and Master Contract gains. I'm not a member of any group, believe all Officials should be independent.

To reduce 6 percent dues increase to a needed level. To return power to membership. To return Officials salaries and vacations to reasonable level as prescribed by membership vote — any raises to be in conjunction with contract increases. To establish stringent saeguards to protect Pension Funds. To equalize pension payments — based on monies paid in rather than wages earned.

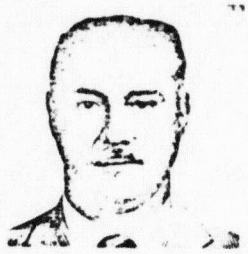
To limit tenure of office to two consecutive terms in same office. To equalize work opportunities among all members. To strive or a single contract for all vessels—both Coasts (No Sweetheart Deals) To require all important issues to be approved by Membership vote. To return to Rank and File chairman for meetings. To establish Rank and File Policy Board for Baltimore School.

Ray Steward Armitstead

Killdall Nagivation School, 3rd Mate 2-46 and joined MMP Local 90. 3rd, 2nd, 1st Mate; ROBIN DONCASTER, ANADARKO VICTORY, HH RAYMOND, ISLAND MAIL, CHINA MAIL, ROBIN GOODFELLOW, LaMERCED, HAWAIIAN CRAFTSMAN, HAWAIIAN PACKER, HAWAIIAN LUMBERMAN, HAWAIIAN RETAILER, HAWAIIAN QUEEN, HAWAIIAN FARMER, FE WEYERHAUSER, PANAMA. Staff Captain: MARIPOSA. Captain: HAWAIIAN PLANTER, CAPE SAUNDERS, PONCE, FAIRLAND, NEWARK.

Active sailing member of MMP since 1946. Age 48. I will draw on my past experience to bring new energy, vitality and ideas into our union. My goals are: Membership rule, regular union meetings in all halls. All Seattle office costs, including salaries, expense accounts, etc. to be presented at meetings for approval by Membership, Financial Report for the entire union with a port-for-port breakdown plus the following years estimated budget.

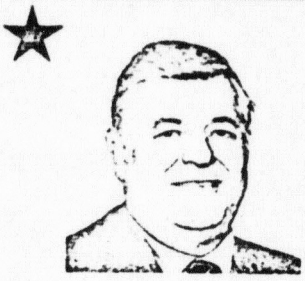
Any amalgamation of this union with any other must wait for the new officers to take office so more facts may be learned, printed and submitted to membership vote prior to any merger.



Florin Dente

Candidate for Port Agent, Seattle, Washington and Convention Delegate.

Age 50. Joined Local 90 November 1947. License Chief Mate, Issue 6-8. Graduate Fort Trumbull August 1944 and outside of two years service U.S. Navy (Merchant Marine Reserve Officer) during the Korean War I have continuous active service in the U.S. Merchant Marine since 1941. I have served over half of my Licensed sea time as a Chief Mate. I am a candidate for office supported by the West Coast Mates Committee and Members for a Democratic Union. I ask you to support all the other candidates on their slate of officers. More so than ever before, the very foundation and principals of our Union are at stake in this election. The economic welfare of the membership and their families are in jeopardy. You must exercise the right to participate in the government of our Union by your VOTE in this election. I promise that if I am elected I will work for the membership expressing your desires, communicating to you fully at all times, working for our survival as a strong Independent Democratic Union. Do not let others elect you officials. USE YOUR VOTE — NOT YOUR SILENCE.



Rupert (Rupe) J. Soriano

Candidate for re-election for Seattle Port Agent and Delegate to International Convention. Pledge to continue the fight against "runaway contracts," cut-rate wages, and working conditions, and the AMO, SIU, MEBA, and any other Maritime Union that threatens our jurisdiction.

The present MM&P Welfare Plan on both coasts is outstanding and will work to keep it the best in the industry. All welfare benefits are now guaranteed. The MM&P Pension Plan is in a very sound position on both coasts, and will work for continued improvement. I will continue to work for the merger of the East and West Coast Pension and Welfare Plans.

In 1975 your Union will be negotiating a new contract and pledge to work for the entire membership. One Agreement for Offshore Division and job opportunities for all members must continue. The Negotiating Committee should hear from every member to get requests for demands. This Organization must keep going forward.

I intend to work for a vigorous, progressive Organization in the best interest of all members. I solicit your vote and pledge to work and make the International Organization of Masters, Mates & Pilots the strongest Union in the maritime industry.

FOR CONTINUED MM&P PROGRESS, PROSPERITY AND STRENGTH VOTE FOR THE O'CALLAGHAN TEAM.

CONVENTION DELEGATES

Julian C. Allen
Walter J. Anderson
Cecil G. Austin
Richard Bara
Nicholas Barbara
William K. Beach
James Joseph Brady
Frank Burke
Lawrence A. Burlingame
Richard A. Cahill
Frank R. Cain
Edward M. Caldwell
William M. Caldwell
Richard M. Casselberry
Richard G. Connelly
John Q. Conrad
Cornelius F. Coyle
Ford Cummings
Florin Dente
Thomas K. Earle
Norman H. Fischer
Frank C. Flaherty
James R. Giblin
Milton H. Gonzales
Tom Gunter
John Haring
James Haverfield
Charles Henning
Paul D. Hermann
Herman Dean Hillman

Arthur L. Holdeman
Frederick Jacobsen
Charles H. Jess
Daniel F. Kennedy
Amos E. Koonce
Francis E. Kyser
Frederick S. Laird
Neil H. Lambert
George E. Landrigan
N. L. LaRocca
Orion L. (Bill) Larson
Owen R. Lewis
Robert A. Liddy
Robert J. Lowen
Leon J. Maas, Sr.
Lloyd Martin
David A. McLean
Jose Morales
H. L. Nereaux
Thomas D. Neumann
Bernard O'Hagan
Manfred Osborn
Andrew G. Oughcltree
Claude Parham
Martin E. Pecil
Julian Platon Jr.
Richard J. Polachek
Robert N. Polumbo
Michael E. Pscenicka
Jack W. Raimond

A. Reid Jr.
John Rosand
James T. Russell
Frank T. Scavo
Allen C. Scott
J. R. Silver
Edward W. Simmons
Leo Skevnick
Clyde J. Smith
John M. Smith
Charles M. Snow
Rupert J. Soriano
William R. Sorrentino
Victor Soto
Jacob Spiegel
Joseph A. Stanley
Ernest K. Swanson
George M. Tuttle
Virgil G. Valentine
George Vance
Philip Vecchione
Charles Wallace
Henry C. Walther
Morris (Moe) Weinstein
Marion C. N. Wells
Joseph Wesley
Paul Wilkins
Vincent J. Yakavonis
David F. York

ALTERNATE CONVENTION DELEGATES

Stephen C. Farnum	Eric S. Hayes	George Pedersen
Erwin Fitze	O. R. Jorgenson	Earle Vessey
Charles Gedney	Richard J. Moore	Henry Carl Walther
John Haring	John H. Morin	Harry Walton

INTERNATIONAL CONSTITUTION AMENDMENT

*(CONVENTION ACTION)**

"In Article VII, Section 1, delete both paragraphs of (a) and substitute the following:

"(a) Each member of the General Executive Board shall have one vote and a majority of the votes cast at any meeting of the General Executive Board shall be necessary to adopt any resolution."

"(b) A majority of the General Executive Board members shall constitute a quorum."

YES ☐ NO ☐

* *The intent of this Convention Action is for each member of the General Executive Board to have an equal vote.*

NOTICE

This Supplement is being mailed first class to conform to the requirements of the Labor-Management Reporting and Disclosure Act of 1959, as amended, and to give timely exposure to all candidates. The technical inadequacy of some photographs submitted, and the failure of some candidates to identify their pictures has resulted in our inability to run these photographs in this supplement.

General Executive Board Meeting Minutes July 29, 1974

Notice

The following minutes applicable to this election supplement are reprinted for the general information of the membership.

July 29, 1974 — Maritime Institute of Technology and Graduate Studies, 5700 Hammond Ferry Road, Linthicum Heights, Maryland 21090 Conference Room

1 p.m. Meeting called to order by Capt. Thomas P. O'Callaghan, International President.

Present — Pres. T. P. O'Callaghan, Int'l Exec. V.P. William M. Caldwell, Int'l Sec.-Treas. R. J. Lowen, Offshore Division V. P. (Atlantic) J. Gaier, Offshore Division V. P. (Gulf) R. Jones, Offshore V. P. (Pacific) O. Larson, Pilots Division V. P. S. K. Sprada, Regional Director-Inland (Western Region) D. Boyle.

Also present — M. Schwartz (Int'l Counsel), J. Singman (Washington, D.C. attorney), H. Seidman (Comptroller MM&P), Jackie Acree, secretary.

— Section 5(b) and (c) with respect to election of Editorial Board for MM&P paper, and adoption of rules for access to publication.

G.E.B. Board members J. Gaier, S. Sprada and D. Boyle declared Editorial Board members by acclamation.

Board discussed latest Constitution changes regards publication and problems of fairly reproducing membership comments. International Counsel Schwartz assesses problems involved. Lenthy discussion by G.E.B. on rules.

G.E.B. Unanimously concurred in the following rules:

A. A supplementary issue of the "Master, Mate and Pilot" shall be printed before the ballots are mailed which will be devoted to the elections. The supplementary issue will include photographs and statements of the candidates (if submitted).

B. Photographs of candidates must be a black and white glossy, size 5" x 7" and of a quality permitting duplication. (Color photographs cannot be reproduced.)

C. Statements of candidates must be statements of fact which do not exceed two hundred (200) words.

D. Any letters which are submitted by members to be published in the "Master, Mate and Pilot" paper must contain the name and member identification number of the writer. Letters containing scurrilous statements or statements not related to the election will not be published.

E. All letters submitted by any members shall be published in the "Master, Mate and Pilot" paper subject only to reasonable limitations of space. When more letters are submitted than there is space, the letters selected for publication shall fairly represent all of the points of view presented.

2113a

AMERICAN ARBITRATION ASSOCIATION, ADMINISTRATOR

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS

TEAR HERE

ELECTION OF INTERNATIONAL AND OFFSHORE DIVISION OFFICERS

Voting Instructions—Read Carefully

General Information

This election is being conducted by the American Arbitration Association under the supervision of the International Ballot Committee elected at the 1974 Convention.

Instructions

These rules have been [illegible] to insure the secrecy of your vote. Do not sign, initial or mark any manner this ballot other than to make mark in the box of your choice.

SAMPLE BALLOT

1. When you have indicated your choices, fold and seal this ballot in the envelope marked SECRET BALLOT and seal the envelope.

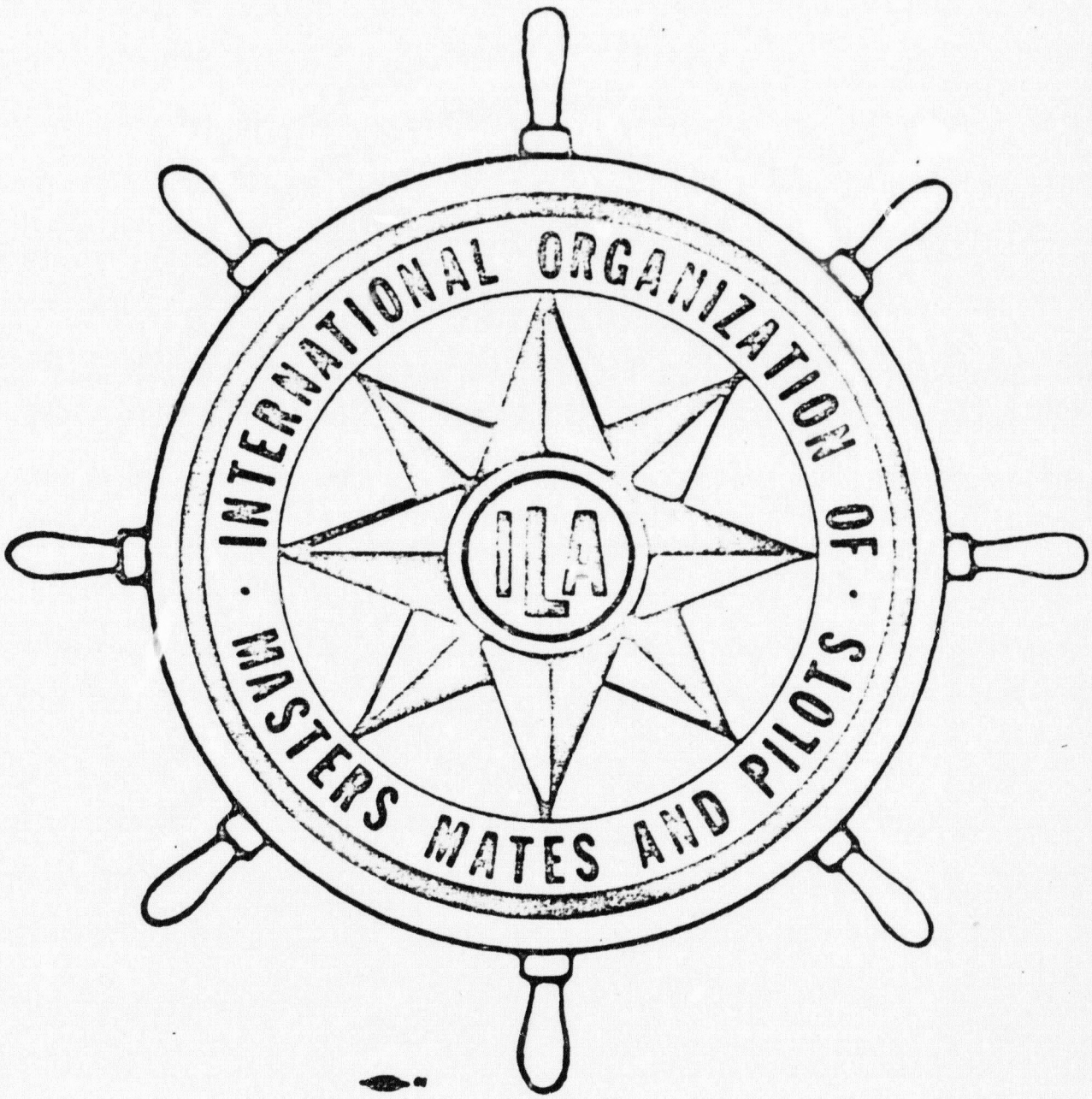
2. Place this Secret Ballot envelope in the larger envelope and clearly print or type your name, address, subordinate body and social security number in the space provided in the upper left corner. Also, be sure to SIGN your name in the space provided.

3. Seal this pre-addressed, postage-paid envelope and mail as soon as possible. No postage is required if mailed in the United States.

TEAR HERE

4. Any return envelope on which the imprinted number is mutilated will void the ballot. This number is for security purposes only. All returned envelopes shall remain unopened until counted by the impartial balloting agency in the presence of the International Ballot Committee.

IMPORTANT – ALL BALLOTS POSTMARKED LATER THAN MIDNIGHT, DECEMBER 24, 1974 SHALL BE DECLARED VOID.


INTERNATIONAL ORGANIZATION OF
MASTERS MATES AND PILOTS
ILA

Form 280 A-Affidavit of Service by Mail
Rev. 3/72

2115a

72 Civ 3031 CBM

AFFIDAVIT OF MAILING

State of New York)
County of New York) ss

PAULINE P. TROIA, being duly sworn, deposes and says that she is employed in the Office of the United States Attorney for the Southern District of New York.

That on the 23rd day of May 19 75 she served a copy of the within

appendix to plaintiff's reply memorandum

by placing the same in a properly postpaid franked envelope addressed:

1) Marvin Schwartz, Esq., 243 Waverly Place, NY NY 10014

2) Ernest Allen Cohen, Esq., Messrs. Jaffe, Cohen, Berman & Crystal, Esqs., 275 Seventh Ave. NY NY 10001

And deponent further says she sealed the said envelopes and placed the same in the mail chute drop for mailing in the United States Courthouse, Foley Square, Borough of Manhattan, City of New York.

Pauline P. Troia

Sworn to before me this

23rd day of May 19 75

Ralph L. Lee

RALPH L LEE
Notary Public, State of New York
No. 41-2292838 Queens County
Term Expires March 30, 1977

Deposition of American Arbitration Assoc. dated October 10, 1974

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

----------x

JAMES D. HODGSON, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR,

Plaintiff,

-against- : 72 Civ 5031 (CBM)

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS INTERNATIONAL MARITIME DIVISION, ILA, AFL-CIO,

Defendants.

----------x

October 10, 1974
10:00 a.m.

Deposition of American Arbitration Association by PATRICIA LEPTAK, taken by the plaintiff, held at the offices of the United States Attorney, 40 Centre Street, New York, N.Y., before Russell M. Graves, a Certified Shorthand Reporter and a Commissioner of Deeds.

60

APPEARANCES:

PAUL J. CURRAN, ESQ.
United States Attorney for the
Southern District of New York
40 Centre Street
New York, N.Y.
BY: BOBBY C. LAWYER, ESQ.
DENNISON YOUNG, JR., ESQ.

ALSO PRESENT:

BRIAN O'HANLON,
Compliance Office, United States Department of Labor, Management Services & Administration

JACQUELINE DAGG,
EDWARD J. KEENAN,
Compliance Office, United States Department of Labor, Management Services & Administration.

P A T R I C I A L E P T A K, CALLED as a witness by the plaintiff, being first duly sworn by the reporter, a Commissioner of Deeds, testified as follows:

EXAMINATION BY MR. YOUNG:

MR. YOUNG: This deposition is taken pursuant to a subpoena issued on the American Arbitration Association, served on, henceforth known as the AAA, made returnable today, October 10, 1974, 10 o'clock a.m., in this office.

I would like to note the time is now 10:32. As of this time no counsel, no one has appeared on behalf of the defendant, International Organization of Masters, Mates and Pilots, henceforth we will refer to them as the IOMMP.

The subpoena that was served on the AAA requested that, "A custodian of the items listed on the schedule annexed who was authorized to testify to their authenticity," testified. I would like to have marked as an exhibit a copy of that annexed list, and ask Miss Leptak to identify this as identical to the list that was served on the AAA.

THE WITNESS: This is the list.

MR. YOUNG: The court reporter will mark that as Government's Exhibit A.

rglt Leptak

xxx (Government's Exhibit A, marked for identification.)

MR. YOUNG: Miss Leptak has handed me a copy of a document which appears to be a designation persuant to Rule 30 (b)6, of the federal rules of civil procedure, authorizing her to testify as the appropriate official pursuant to the subpoena issued on the AAA; Miss Leptak, the designee of the AAA.

Q You have the original of this, you say?

A Yes, I do.

Q You indicated you wanted to insert this in the record or have it submitted to the court reporter or the court clerk?

A The clerk.

Q Okay. I would like the copy you hand me to be identified, marked as Government's Exhibit B, and includad as an exhibit, as part of the record.

A Okay.

(government's Exhibit B, marked for

xxx identification.)

Q Reading this designation, I note that it reads as follows:

"The AAA, pursuant to appropriate rule, designates Miss Patricia Leptak as the person who

consents to testify on its behalf in response to the subpoena served by the plaintiff upon it as 'the custodian of the items listed ' on the schedule annexed thereto, appeared."

In order to avoid any confusion, not only do you consent, but the AAA consents to have you be the designated person to so testify, is that correct?

A Yes.

Q It also notes on the designation eleven different categories of items which you will produce pursuant to the subpoena, is that correct?

A Yes.

Q Can you tell us -- you walked in this morning with four cartons. These cartons contain all the documents that you intend to produce today?

A Yes.

Q And all the documents, the categories of documents listed on the designation form are found in these boxes?

A Yes, that's correct.

Q Did you personally search every location that would be under the control of the AAA?

A Yes, I did.

Q And these were all the documents you found

pursuant to the subpoena?

A Yes.

MR. YOUNG: Off the record.

(Discussion off the record.)

MR. YOUNG: Back on the record. What I have just discussed with the witness is a method by which we can now proceed to now identify the items contained in the boxes. It appears that we will need some period of time, perhaps an hour or two, to mutually identify what is in the box. And we will ask the court reporter to come back once we have prepared them in logical order, so as to make a record of just what exists in the boxes. Is that all right with you?

THE WITNESS: That's fine.

MR. YOUNG: I would like to note it is now 10:41, still no one has appeared on behalf of the defendant. Okay. Let's take, hopefully, a brief recess.

Miss Leptak, just a couple more questions before we recess.

Can you state your -- what is your address, your personal address, home address?

A Home?

Q Yes.

A 169-10 22nd Avenue, Whitestone, New York.

Q And with whom are you employed?

A The American Arbitration Association.

Q In what capacity?

A Administrative assistant to Mr. Wolff, who is the vice president and also election director.

Q What are your duties and responsibilities at the AAA? Generally.

A Secretarial, assisting at elections, when necessary. That's basically it.

Q How long have you been with the AAA?

A Since June of 1969. A little over five years.

Q At the time in 1969, 1970, '71, were you familiar with the IOMMP's election, or forthcoming election, the 1971 election?

A I was aware of it, yes.

Q Did you have any responsibilities in connection with it whatsoever?

A At that time, I might have typed correspondence for Mr. Tannenbaum, or Mrs. Carlson, who was handling the election.

Q Both of them were handling the election?

A Yes.

Q Did Mr. Wolff have anything to do whatsoever with this election?

A To my knowledge, no.

Q Where did you find these boxes, the documents in these boxes, physically ?

A We have two storage areas, and they were on our 23rd floor in the hotel where we have two closets which are kept under lock and key, such as past election ballots, or other pertinent information that we need.

Q That is one place?

A Yes.

Q What is the other one?

A In our main office basement, they have one room as storage space.

Q And you found some documents down there?

A No.

Q So you found -- the only documents --

A That I did find were the ones that were kept in the hotel.

Q And you searched elsewhere in the building?

A Yes, I did.

Q Are there any documents located in any of the legal offices?

A No.

Q And you made a search or there was an inquiry?

A With the legal department?

Q Yes.

A No, because I felt that any files that we had were kept by the election department and not by the legal department.

Q At the conclusion of the day, may I ask you to at least inquire of the legal department and any other official in the department in the AAA as to whether they have any documents that we have subpoenaed?

A Okay. Fine. I'll do that.

Q Thank you. Okay.

(Recess taken.)

MR. YOUNG: It is now 12:25. Mrs. Leptak, correct me if I am wrong, we proceeded to open one of the four boxes which I now ask the reporter to mark as Government's Exhibit C.

(Government's Exhibit C, marked for identification.)

xxx

BY MR. YOUNG:

Q Before we proceed to identify the contents of that box, let me ask you,did you place all the materials in these boxes?

A Yes, I did.

Q Including the smaller box that we have not yet opened, the smallest box?

A The contents in that small box were already in there. I just opened it and checked it and closed it and brought it with me.

Q Referring to Exhibit C, the first box that we haveopened, did you place all the materials that were in that box in that? Did you place the materials in that box?

A Yes.

Q All right.

MR. YOUNG: You have been here while we took the contents out and examined them, and now I would like to proceed to identify them for the court reporter.

First off, there appears to be quite a few ballots.

Q Is that the proper description?

A Yes, those are ballots.

Q Together, we have counted these ballots, is that right?

A Yes.

MR. YOUNG: I am now going to proceed to

identify ballots as best as I can.

Each ballot has two printed sides, a front and a back. The front side is designated "Candidates for International Office,"and lists all the candidates for International president, International executive vice president, and international secretary-treasurer.

On the reverse side there is identified various candidates for the different divisions and ports, division and port offices.

Since all ballots have identical first sides, that is, candidates for International office, are identical for each, the apparent distinction will be by the listings on the reverse side, that is, of the offshore division and the port offices.

As I recite each grouping, I will replace them in the box. First grouping is a group of 187 ballots identified as "Candidates for Offshore Division office For the Ports of Mobile and Tampa." These are grey in color.

Q Grey was the offshore division color, was that right?

A I don't know. I mean, if that is the color that is there, yes.

Q Okay.

2127a

The next group consists of 442 ballots designated, "Candidates For Offshore Division Office for the Ports of Galveston, Houston and Port Arthur, also grey in color.

The next group -- Mr. Court Reporter, may I ask you to identify each group as we proceed as the Government's Exhibit C-1, C-2, etc., etc. And going back to the first group, the Mobile and Tampa group, would you mark this as Government's Exhibit C-1.

(187 ballots identified as "Candidates for Offshore Division Office for the Ports of Mobile and Tampa" marked as Government's Exhibit C-1, for identification.)

xxx

MR. YOUNG: And would you mark the ballots for Galvaston, Houston and Port Arthur as Government's Exhibit C-2.

(442 ballots designated "Candidates for Offshore Division Offices for the Ports of Galveston, Houston and Port Arthur, marked Government's Exhibit C-2, for identification.)

xxx

MR. YOUNG: The third bunch of ballots is designated as "Candidates for Offshore Division Office for the Ports of Baltimore, Philadelphia, Norfalk, Charleston and Savannah. The total number is 649.

These are also grey in color. May these be marked as Government's Exhibit C-3.

xxxx (649 ballots designated "Candidates for Offshore Division Office for the ports of Baltimore, Philadelphia, Norfolk, Charleston and Savannah, marked as Government's Exhibit C-3, for identification.)

MR. YOUNG: Next is 125 ballots for the "Candidates for Offshore Division Office for the Ports of Jacksonville and Hollywood, (Southeast Florida),and these are grey, also.

xxx (125 ballots designated "Candidates for Offshore division Office for the Ports of Jacksonville and Hollywood (Southeast Florida), marked as Government's Exhibit C-4, for identification.)

MR. YOUNG: The next are the ballots for the "Candidates for Offshore Division Office for the Ports of San Francisco, Portland and Wilmington, (California). They are all grey in color. We have a series of packages. They are subdivided into groups. I would like each group identified appropriately, in the appropriate next order.

The first one is a group of 209 ballots.

May that be identified as Government's Exhibit C-5.

(Group of 209 ballots marked as Government's Exhibit C-5, for identification.)

MR. YOUNG: The next, for the same ports, a group of 208 ballots. May these be identified as Government's Exhibit C-6.

(Group of 208 ballots, marked as Government's Exhibit C-6, for identification.)

MR. YOUNG: The next is a group of the same offices, consisting of 197 ballots. May these be identified as Government'S Exhibit C-7.

(Group of 197 ballots, marked Government's Exhibit C-7, for identification.)

MR. YOUNG: The next is a group for the same offices, consisting of 45 ballots; to be identified as Government's Exhibit C-8.

(Group of 45 ballots, marked as Government's Exhibit C-8, for identification.)

MR. YOUNG: The next is a group for the same offices consisting of 252 ballots. May they be identified as Government's Exhibit C-9.

(Group of 252 ballots marked as Government's Exhibit C-9, for identification.)

MR. YOUNG: The next is a group of ballots

consisting of 112 for those same offices. May they be identified as C-10.

xxx

(Group of 112 ballots marked as Government's Exhibit C-10, for identification.)

MR. YOUNG: The last group for the same offices, that is the San Francisco, Seattle, Portland and Wilmington offices, a group of 264 ballots to be identified as Government's Exhibit C-11.

(Group of 264 ballots marked as Government's

xxx

Exhibit C-11, for identification.)

MR. YOUNG: All these ballots for said offices are grey in color.

The next group of ballots can be identified as "Candidates for Offshore Division Office for the Port of New Orleans. This group consists of 275 ballots, grey in clor; and may they please be identified as Government's Exhibit C-12.

xxxx

(275 ballots designated "Candidates for Offshore Division Office for the Port of New Orleans, marked as Government's Exhibit C-12, for identification.)

MR. YOUNG: I would like to note that the total ballots for the "Candidates for Offshore Division Office for the Ports of San Francisco, Seattle, Portland

Wilmington, (California) is 1,287.

Q Is that correct, Pat?

A Yes, it is.

MR. YOUNG: The next group of ballots is identified as "Candidates for Offshore Division Office for the Port of Providence, consisting of 77 ballots, grey in color. May these be marked please as Government's Exhibit C-13.

(77 ballots designated "Candidates for Offshore Division Office for the Port of Providence, marked Government's Exhibit C-13, for identification.)

xxxx

MR. YOUNG: The next group of ballots identified as "Candidates for Offshore Division Office for the Port of Boston, consists of 94 ballots, also grey in color. May these be marked as Government's Exhibit C-14.

(94 ballots designated "Candidates for Offshore Division Offoce for the Port of Boston, marked as Government's Exhibit C-14, for identification.)

xxxx

MR. YOUNG: And the last group of ballots identified as "Candidates for Pilots Division Office, consists of 204 ballots. These are, unlike the rest, are green in color. May these be identified please as Government's Exhibit C-15.

xxx

(204 ballots identified as "Candidates for Pilots Division Office"and green in color, marked as Government's Exhibit C-15, for identification.)

MR. YOUNG: I think what we will do is recess until 2:15.

Off the record.

(Discussion off the record.)

MR. YOUNG: Just for the record, it is now a quater till one, 12:45. And we will take the recess until 2:15. In addition to the ballots, there are a number of folders which appear to contain lists of individuals in alphabetical order, and also which names, alphabetically, have been numerically designated in some sequence.

Let the record reflect that there appear to be six folders. On the outside of the first are the initials, NYNY. And the outside of the second, San Fran, (San Francisco).

On the outside of the third, there is a red mark, 1350 03771.

THE WITNESS: That stands for the case number.

MR. YOUNG: With the initials R.E.F. on the outside.

The fourth pamphlet, folder, designated "Jacksonville, 4567; New Orleans, Mobile," has the initials "O.S. OFF."

The fifth identified as 9, 10, 11, 12 Norfolk, Philadelphia, Providence, mixed numbers . Also has the initials O.S. OFF; and the sixth and last folder, marked 123 Baltimore and Boston, Galveston, has the initials O.S. OFF.

Why don't we take our recess until 2:15.

I would like to note that at this time no one has appeared on behalf of the defendant.

(Recess taken at 12:50 p.m.)

- - -

AFTERNOON SESSION

3:34 p.m.

MR. YOUNG: We resume at 3:34. Mr. Court Reporter, we left off indicating that in the first box which had been noted as Government's Exhibit C there were also contained therein a number of folders, six to be precise.

To further describe these folders, taking them one at a time:

One has the initial, NYNY on the front; has a manilla envelope inside and therein; has a computer print-out, having various names and addresses typed on the different pages, each page is four columns in width and has approximately 44 names on them, on each page, that is.

This particular folder consists of 47 pages. Next to each name is a number, and it appears that the numbers run consecutively from nubmer 2862 through 4898. Notwithstanding the designation on the manilla folder which says 2865 to 4898.

Q Is that correct, Pat?

A Yes.

Q Miss Leptak.

A Yes.

MR. YOUNG: May we mark this folder, together with its contents, as Government's Exhibit C-16.

(Folder marked as Government's Exhibit C-16, for identification.)

xxxxx

MR. YOUNG: The next folder is one that on the outside it has numbers 1, 2, 3 and the words "Baltimore, Boston, Galveston and the initials O.S.OFF. Contained therein is a manilla folder with numbers 1-1719 thereon, within the manilla folder are pages similar to those pages in the previous exhibit. It appears that these sheets are broken into three segments. The first segment described as Baltimore, contains 18 pages. The number next to the names of those pages run from number 1 through 770. The second segment can be described as Boston; is seven pages in length.

Numbers next to the the names thereon run from 771 through 1032. The third segment is that apparently from Galveston, consisting of 16 pages, with the numbers on it next to the names thereon running from 1033 through 1719.

I would like the folder, together with its contents, the outside folder together with its contents identified as Government's Exhibit C-17.

(Folder identified as "1,2, 3; Baltimore,

xxxxx

Boston, Galveston" and the initials "O.S. OFF" and contents, marked as Government's Exhibit C-17, for identification.)

Q Have I described this accurately?

A Yes.

MR. YOUNG: The next folder on the outside reads 9, 10, 11, 12, Norfolk, Philadelphia, Providence, mixed numbers and International, has the initials on it O.S.OFF. Within this folder is a manilla folder, numbers appearing thereon, 5000-5987. Within the manilla folder are computer print-out sheets similar to those that I have previously described. The pages therein appear to be broken down into various segments. The first segment is that described as Norfolk. It consists of six pages. The numbers next to the names thereon run from number 5237.

The next segment described as Philadelphia consists of 14 pages. Numbers next to the names thereon read from 5238 through 5811.

The third segment described as Providence consists of three pages. Numbers next to the names thereon run from 5812 through 5934.

The next segment consists of "Mixed numbers". It consists of 3 pages. The numbers next to the names

thereon appear to run from 5935 through 5987. It is noted that not all the names are numbered. The last segment should be described as International, capitalized. It consists of 1 page. The numbers next to the names thereon run from 1721 through 1730, A. And may we have this folder and its contents marked as Government's Exhibit C-18.

(Folder and contents described above, marked Government's Exhibit C-18, for identification.)

xxxx

Q Miss Leptak, have I described that one accurately?

A Yes.

MR. YOUNG: Okay.

The fourth folder contains on the outside the word "Jacksonville;" then the numbers, 4567; New Orleans, Mobile, the initials O.S. OFF, contained therein is a manilla envelope, with the numbers 17318-2861 thereon.

There are a number of pages contained in the manilla folder similar to the previously described pages in the other exhibits. These pages are broken down into three segments.

The first segment should be considered

Jacksonville. It consists of 6 pages. There are two sets of numbers appearing next to the names thereon. The first set of numbers run consecutively from 1731A through 1760A.

The next set of numbers runs from 1731 through 1935.

The second segment of these sheets appears to be New Orleans; consists of 15 pages. The numbers next to the names printed thereon appear to be in two categories. The first category running from 1936 through 1970A. The second category running from 1936 through 2511.

The third segment appears to be Mobile, consists of 9 pages. Numbers next to the names thereon are also broken into two segments or two divisions. The first division is number 2511A through 2521A. The second is number 2512 through 2861.

May we have this folder and contents therein marked as Government's Exhibit C-19.

xxx (Folder and its contents described above, marked as Government's Exhibit C-19, for identification.)

MR. YOUNG: The fifth folder should be described as having the word, San Fran, and also

San Francisco on the outside. It contains a manilla folder which has the word San Fran on the outside and the numbers 5990-8178 also on the outside of the manilla folder. Likewise, this folder contains quite a few pages similar to those pages described previously. In total, there are 42 pages, apparently; and the numbers next to the names thereon appear to run from number 5990 through 7832, consecutively.

Q Miss Leptak, have I described this and the previous exhibit appropriately?

A Yes.

MR. YOUNG: May we have this folder identified as San Fran, marked as Government's Exhibit C-20.

(Folder identified as "San Fran" and contents therein, marked as Government's Exhibit C-20, for identification.)

xxxx

MR. YOUNG: There is one other folder which has on the outside the numbers 1350 03771 and the initials, R.E.F. on the outside. Miss Leptak has explained to me that this folder and its contents may not relate to the 1971 election.

Q What are they related to , Miss Leptak?

A Around that same period of time, approximately one month before we started this election of offices,

we conducted another election for the I.O.M.M.P. which was a referrendum, and I believe that to be the list.

Q Did you just check this with your office?

A Yes, I called my office and spoke with Robert Hergenhan, who is administrator, and checked our carding slips and found out that number 37 is the case number given to the referrendum in 1971.

And number 38 was our case number given the I.O.M.M.P. election of officers.

Q So you believe this may relate to the referendum?

A Yes.

Q And not the election?

A It is very possible that it probably belongs to the referrendum.

MR. YOUNG: All right. To further describe the contens of this folder, this too has sheets with names and addresses printed on them simliar in style to the names and addresses on the folders previously marked.

Likewise, there appear to be numbers next to each name on these lists. I note that numbers appear to run consecutively from 1 through 8205, and that there is approximately 96 pages, on which all this

information appears.

Q Is that correct, Miss Leptak?

A Yes, it is.

MR. YOUNG: If you have no objection, we will just keep this box. It will be kept as part and parcel of our general Exhibit C, and we will just mark this as Government's Exhibit C-21.

THE WITNESS: All right.

MR. YOUNG: Thank you.

(Folder relating to referrendum, marked as Government's Exhibit C-21, for identification.)

xxx

MR. YOUNG: Let us proceed to open a second box, which I would like to ask the reporter to mark as Government's Exhibit D.

(Government's Exhibit D, a box, marked for identification.)

xxx

MR. YOUNG: The first document is a green folder with the words,"Statistical Tabulating Corporation," printed thereon. And the words, "Offshore Div. Election Inspection List," handwritten thereon. Within it are three letters which appear to have been inserted conveniently in the front of the folder.

The first letter is a letter dated December 15, '71 to Mrs. Carlson, on the stationery of the

IOMMP, signed by Captain Robert J. Lowen; has certain attachments, and the letter deals with inland membership.

The second letter dated November 18, 1971, addressed to the AAA from Captain Robert J. Lowen, also on the stationery of the IOMMP, concerns the membership list records of Thomas F. Parker.

The third letter is a letter dated December 16, 1971, addressed to Mrs. Margaret Carlson, and it is on the stationery of the IOMMP from Captain Lowen; has attachments, and the letter deals with change in membership of Captain Barnhart, as well as three members from the inland division who had apparently died.

The bulk of this document is a lengthy computer print-out apparently consisting of 171 pages, having the names, Social Security number, addresses and branch, or what might be the port, printed thereon.

The heading on this computer print-out which has horizontal red and white stripes, is a Masters, Mates and Pilots master file listing dated 8/18/71, and after the page numbers it has Offshore Division.

May we have this marked as Exhibit D-1.

(Green folder with the words "Statistical Tabulating Corporation" printed thereon, and its

xxxx

contents, marked as Goverment's Exhibit D-1, for identification.)

MR. YOUNG: Together with the letters therein, the next is a folder, a manilla folder which is noted on the outside it says in red pencil, "Inland." It also has Election of Offices on the outside in pencil. Contained therein are various and sundry documents. There are two computer print-out sheets of green and white stripe with various names and addresses typed thereon.

There appears to be numbers next to each name. In fact, there are red numbers on the left side of the names and blue numbers handwritten in both cases on the side of the name; in pencil, "Inland Local number 6-International, only."

The second computer print-out list appears to be a duplicate of the first. I note there is a third very thin computer print-out on the same type of paper, and it is two pages in length, four columns, with names thereon, also with similar red and similarly styled red and blue numbers.

The first name appears to be Douglas A.K., and the last name appears to be Yoko Yama. There is also scotch-taped here a piece of paper indicating 11 different names in similar style on this list. The

next is a four-page document. It seems to be a copy on the stationery of the IOMMP. It is dated August 13, 1971. It has as its heading, A.M. with number 5 membership list.

The next is a 10-page document, the front page of which appears to be on the stationery of the Associated Maritime Workers Local No. 8.

Handwritten hereon, on the top, it says, "International Only." There are a list of names and next to the names are numbers running from 37 through 180.

I note that the last few pages of this document are on the stationery of the South Coast Towing Company, and there is a date thereon of 3, August, 1971.

Next is a 1-page document handwritten on the top is "International Only." It is a series of names. There is a heading, Local No. 1, IOMMP, Port of New York, New York, members in good standing as of August 1, 1971.

Next is a two-page document, membership list, Local No. 4, Mobile, Alabama, Inland Division. It has names and handwritten numbers on the left side of those names.

The next is a document on the stationery of

the IOMMP, five pages.

There is a date, August 13, 1971. The heading is "Inland Membership List." The numbers appear to run from 296 through 336 next to the names. There is a number of names without any numbers.

Next is a membership list, a document entitled, "Membership List of August 16, 1971, East Coast Local No. 14, Norfolk Branch, Inland Division." Handwritten in pencil, the words, "International Only." This too has names and numbers next to the names.

Next is a 1-page document on the stationery of the IOMMP. It is dated August 17, 1971. It has handwritten thereon, "International Only." It appears to be a list of inland members, Philadelphia, Pennsylvania.

Likewise, it has on this one page, numbers next to a series of names.

Next is a 2-page document entitled "Inland Members - Baltimore, Maryland, August 16, 1971." It has a certain list of names and a series of numbers, beginning with 383, running through 459.

Next is a 1-page letter from C.M. Snow to Captain Lowen, dated August 16, 1971 on the IOMMP East Coast Local No. 14 stationery.

Next is a 6-page document entitled "Eligible For Ballots, Local No. 17."

Handwritten thereon is "International Only." I note this was received August 17, 1971 by the IOMMP. It has a list of names thereon, and although there are a series of card numbers out of order next to the names typed thereon, there is also a series of handwritten numbers in blue ink starting with 481 and appearing to run through 667.

Next is a 1-page document. It is a letter from Joe Valinsky to Captain Lowen, dated August 17th, "Re: List of eligible voters."

The next is a 7-page document entitled "International Organization of Masters, Mates and Pilots, Inland Division, West Coast and Pacific Region, Branch 18, Membership List of Full Book Only." It has a series of names beginning with Abbott and ending with Yost. Numbers handwritten next to each name beginning with 668 to 730.

The next is a document that consists of a listing of names on three pages, on stationery, or a Xeroxed copy of stationery of the IOMMP Local No. 24, Jacksonville, Florida. The heading is "Inland Division, Local 24." Handwritten on the side is "Arrange ballots

with Jacksonville name on back," written in pencil on the right.

There is a series of names on these three pages. Next to the names are numbers running consecutively from 731, apparently, through 779. Attached to this three-page document is an orange ballot which appears to be unused, with instructions on one page noting official ballot, and on another page that has perforations on the edge for which it could be separated from the instructions.

I note that on one side it has the listing for candidates for International office, and the other side, candidates for Offshore Division Office for the ports of Jacksonville and Hollywood, Southeast Florida.

It has stamped on the bottom of that side, that is for the local elections, in red ink, American Arbitration Association, received 1971, September 16th, a.m., 1121.

The next document is three pages. The first page is a cover letter from Clifford B. Ocheltree, on the stationery of the International Organization of Masters, Mates and Pilots of America.

It appears to be Isthenian, Local No. 27, from the Canal Zone, addressed to Captain Lowen, dated

August 18, 1971.

The following two pages are a list of eligible voters for amendments to special constitution and election of International offices. There are a series of names beginning with Acheson and ending with Watson, and numbers next to the names, handwritten thereon, running from 798 through 842.

The next is a document consisting of three pages. It appears to be the Panama Canal Pilots Association, Local 30 IOMMP. It contains thereon a listing of names and addresses, card numbers; and next to each name is a number in series from 843, apparently, through A1027.

The next is a document headed IOMMP, Local No. 40, San Francisco, California; a list of members - addresses, and book numbers. Above the word "LOcal" is the word "Inland" handwritten in pencil.

Numbers next to the name appear to run from 1026 through 1132. There may be one or two names without numbers.

The next is a document; the cover page is a page that is entitled "Virginia Pilots who belong to Masters, Mates and Pilots, Norfolk Branch." Handwritten thereon in pencil is "International Only;" and in ink,

"inland."

There is a series of names and addresses, Social Security numbers, apparently, and numbers next to the names.

Attached to this document is a ballot in the color orange; and briefly described, it has a cover instruction sheet, and a sentence sheet that is attached by perforations to the instruction sheet. But unlike the first one this one only has one side, "Candidates for International Office." It has no local offices on the reverse side. That was orange.

The next few documents appear to be official ballots. It appears there are 12 all together. Miss Leptak has been kind enough to number them from 1 to 12 and put her initials next to each one just to help us save time.

That's all that is in this manilla folder, which I would like to have marked as Government's Exhibit D-2.

xxxx

(Manilla Folder with "Inland" printed in red pencil and the contents therein, marked as Government's Exhibit D-2, for identification.)

MR. YOUNG: The next folder I pulled from this box marked D is one manila folder with the word "Pilots" in red pencil marked on the outside.

At this time, in the record I would like to note that the box designated as Exhibit C had two items, miscellaneous item both. One appears to be a calculator adding strip and the other is four names on gum labels. I just will keep them in the box C.

Getting back to the "Pilots" manila folder here, the first document is a two page list of names, Social Security numbers, lines, and designated "State Pilot." There are names listed from 1 through 11. The second page is signed by John F. Beirnne, Board Agent, Providence. Again, this is a Xerox copy.

The second document consists of four pages stapled together. The first three appear to be entitled "Houston Pilots," with an address in Houston, Texas. Then in the center is "HOUSTON PILOTS," in capital letters. The names thereon are numbered from 12 through 53.

The fourth page of this document is headlined "Columbia River Bar Pilots" and has names, addresses and apparently a date handwritten on the top, "May 27, 1970." The numbers next to the name run from 54 through

89.

The next document is one which appears to be marked "The United New York Sandy Hook Pilots Association." The Post Office box appears to be 1694 Staten Island, New York. This is a Xerox of something that has a series of names and addresses. The numbers next to the names run from 90 through 229.

Next is a two page document consisting, the first page, of a letter on Columbia River Bar Pilots stationery, from R. H. Collins to Mr. Charles Crux, dated May 29, 1970. The second is a list of names and addresses, the heading of which is "Local 23 of IOMM And P." The numbers thereon run from 230 to 247.

The next document is in two pages. It is a list of names and addresses entitled "Roster Members in Good Standing, Masters, Mates And Pilots, No. 89." The numbers next to these names run from 248 to 280.

The next is a sixteen page document, the cover of which is a letter from James N. Jacobi to Captain Charles M. Crux dated June 4, 1970. It is on the stationery of the IOMM National, Pilot Local No. 100.

The second page is a letter from the same

persons to the same persons, dated June 5, 1970, noting change of addresses of a number of the members of Local 100.

The remaining pages appear to be a list of names and addresses and card numbers for Local No. 100, starting with No. 286, apparently running through 548.

Next is a document the first page of which is a letter dated May 19,1971 from John F. Beirne to Captain Sprada. The second page has three names thereon, entitled "Brazos - Santiago Pilots." I find also herein two sheets of gummed labels with names and addresses typed thereon. It appears to be the carbon copy of names and addresses that may have been typed on other gummed labels as well.

On one sheet, the first name appearing in the center at the top is a Mr. D. J. Kelly. That is crossed out. And the last name in the lower right is Mr. R. H. Quinn.

The second sheet, at the center top, the first name is Mr. Chase Hill. The last name is Mr. Garland Miller.

May we have this folder and its contents marked as Government Exhibit D-3.

xxx

(Folder and contents marked Government

Exhibit D-3, for identification.)

MR. YOUNG: The next exhibit I take from this box is a manilla folder with a gummed sticker on the outside on which is typed IOMMP, numbers 13 50 0038 71.

It says "Duplicate List Inland and Pilots Division Used For Inspection List."

Contained therein, bound at the top of this folder, appears to be a variety of documents, all of which contain, in slightly different form, names and addresses.

The first one is a 1-page document, which pencil mark number 89 at the top. Although it is difficult to tell, it appears to say, "Roster of Members in Good Standing IOMM and P. This is on the right side. It is scotchtaped together.

The second document, without undoing the binding, it says, "Houston Pilots," at the top. Handwritten in pencil is number 20. This is a 3-page document of names and addresses.

The next is a document, the cover of which is a letter from Jocbit to Captain Crux, dated June 4, 1970, identical to the one described in the previous exhibit, followed by a similar letter which we have previously described in the previous exhibit, and a

list of names and addresses, also apparently of the local number 100; the address, 2000 K Street, Northwest, Washington, D.C., 20006.

Although it is difficult to tell, there appears to be 9 pages of names and addresses attached to those two letters.

Excuse me. 14 pages.

The next is a document, still all bound together here. It says "United N.J. Sandy Hook Pilots, Ben. Ass'n;" three pages of names and addresses.

The next is a 2-page document. Both pages have names and addresses on them apparently from Rhode Island, Connecticut, Massachusetts Pilots. Also Brazos Santiago Pilots, Columbia River Pilots Local 23.

The next is a 1-page list of names and addresses from the Norfolk branch. Following that is an 11-page document, a cover letter is from Clifford B. Ocheltree to Captain Lowen, a letter dated August 18, 1971.

Ten following pages are a list of eligible members for amendments to the International Constitution and election of International offices.

The next is a 2-page document,names and addresses from Local 30. I'm sorry. It's 3 pages.

After that, names and addresses on stationery of IOMMP Offshore Division, August 13, 1971, a.m., with number 5 membership list. That is five pages.

The next is on the stationery of the Associated Maritime Workers Local No. 8; a list of names and addresses consisting of 10 pages, the last 4 pages of which are on stationery of the South Coast Towing Company.

A three-page document, cover page, May 19, 1971; it is a letter from John F. Beirne, to Captain B.K. Sprada.

The next is a 3-page list of names and addresses and Social Security numbers, apparently from Houston Pilots. A 1-page list of names and addresses which is bearly legible. I note the last name begins with a "Z." The address apparently is 1809 N.E. 21st Avenue, Portland, with a zip, 972 -- apparently 12.

The next is a two-page document of names and addresses apparently from United New York, Sandy Hook Pilots Ben. Ass'n. There is a one-page document. It appears that it should have been part of the previous document.

The next is a two-pate document, the cover

page is a letter from R.H. Collins to Mr. Charles Crux, dated May 29th; attached thereto is a list of names and addresses. Following that is a two-page document entitled "Roster of Members in Good Standing, Master, Mates and Pilots, Number 89," identical to the one in the previous exhibit, as far as I can determine.

The next is a document, the cover of which is a letter from James Jacobi to Captain Crux, dated June 4, 1970.

Thereafter is another letter from Jacobi to Crux, dated June 5, 1970, which has a number of names on it. Attached to those two letters are names and addresses consisting of 14 pages.

This is a 1-page document with three names on it, Brazos-Santiago Pilots.

The next is a letter from John Wiek, addressed to the IOMMP, Attention: Captain Lowen. It's dated August 18, 197 1. It is on the stationery of the IOMMP, Local No. 17, Portland, Oregon.

Annexed to that letter, two pages of names and addresses of Local 17. The next document is names and addresses apparently from Local no. 1, International Organization of Masters, Mates and Pilots, Port of New

York, consisting of three pages.

Next is a document on the stationery of the IOMMP Offshore Division. It's dated August 13, 1971. It is entitled "Inland Membership List." It contains names, addresses and Social Security numbers, and it consists of five pages.

Next is a 4-page membership list as of August 16, 1971, East Coast Local No. 14, Norfolk Branch, entitled "Inland Division."

Then comes a document, a cover letter from C.M. Snow to Captain Lowen, dated August 16th, to which is attached a 2-page list of names and addresses from the inland members - Baltimore, Maryland, dated August 16, 1971.

The next document is on the stationery of the IOMMP Offshore Division. On the left side it says, John Handley, Port Agent. It's dated August 17, 1971; and the front page appears to have inland members, Philadelphia, Pennsylvania, listed thereon.

This is attached to a 6-page list of names and addresses. The heading of which is, "Eligible For Ballots, Local No. 17."

I note that many of the names and addresses appear from Oregon and Washington.

The last document is on the stationery of the IOMMP Local No. 24. The heading is "Inland Division, Local 24." It contains names and addresses on three pages. And it appears that this thing is ripping off. May we have this manilla folder and contents marked as Government's Exhibit D-4.

xxx

(Manilla folder with gummed sticker on which is typed IOMMP 13 50 0038 71 and contents therein, marked as Government's Exhibit D-4, for identification.)

MR. YOUNG: Mr. Reporter, I think we will recess for the day. What I would like to ask you to do is to witness the fact that we are, for this evening, going to reseal this box designated Government's Exhibit D with all the contents that were in it when we opened it, including the exhibits thus far marked.

Off the record.

(Discussion off the record.)

MR. YOUNG: I would like you to also note that we have not opened the third nor the fourth box, which Miss Leptak explains to me she sealed this morning before she brought the boxes down here, is that correct?

A Yes.

MR. YOUNG: I will ask Miss Leptak to carry

with her certain documents that may have fallen out of one of these boxes and return them in the morning.

I would like the record to reflect that I am going to give a note to Miss Leptak acknowledging the receipt of these boxes and contents therein to the extent we are aware of them so far. The note will read as follows:

"To Miss P. Leptak from D. Young, AUSA, dated October 10, 1974:

"I wish to acknowledge that Miss Leptak arrived this morning with four sealed boxes, apparently containing documents requrested pursuant to subpoena served on the AAA; before a court reporter, associated with the Southern District Court Reporters, (Mr. Russell Graves), we have opened two of these boxes and have identified on the record the contents of one and in part the contents of the other.

"The one not yet fully identified and marked has been sealed and will not be reopened until we resume identification before a court reporter tomorrow at 10 o'clock a.m. Those yet unopened will not be opened until we are able to likewise identify the contents.

"It is our understanding that Miss Leptak

will return tomorrow morning.

"All these documents will be retained in the custody of the U.S. Attorney's office tonight, and henceforth once marked as exhibits. Signed D. Young and Russell M. Graves."

I hereby hand this document to, Miss Leptak. Is that sufficient?

THE WITNESS: Yes.

MR. YOUNG: Let's adjourn until tomorrow at ten o'clock.

(Adjourned to October 11, 1974 at 10 a.m.)

PATRICIA LEPTAK

Subscribed and sworn to before me

this _____day of _____1974.

C E R T I F I C A T E

STATE OF NEW YORK)
: ss
COUNTY OF NEW YORK)

I, RUSSELL M. GRAVES, A Certified Shorthand Reporter and a Commissioner of Deeds, to hereby certify:

That PATRICIA LEPTAK, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 16-12 day of October 1974.

RUSSELL M. GRAVES.

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Deposition of American Arbitration Assoc. dated October 24, 1974

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

----------x

JAMES D. HODGSON, Secretary of Labor :
United States Department of Labor,

Plaintiff

:

-v- 72 Civ. 5031
(CBM)

INTERNATIONAL ORGANIZATION OF MASTERS
MATES AND PILOTS, INTERNATIONAL :
MARITIME DIVISION, ILA, AFL-CIO,

Defendant.

:

----------x

October 24, 1974
9:40 A.M.

Deposition of AMERICAN ARBITRATION ASSOCIATION by FRIEDA ABELE, taken by plaintiff pursuant to subpoena and court order, at the United States Courthouse, Foley Square, New York, New York, before Howard Chaim, a Shorthand Reporter and Notary Public of the State of New York.

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APPEARANCES:

PAUL J. CURRAN, ESQ.,
United States Attorney for the
Southern District of New York
Attorney for Plaintiff
DENNISON YOUNG, JR., ESQ.
BOBBY C. LAWYER, ESQ.,
Assistant United States Attorneys

PRESENT:

BRIAN O'HANLON
JACQUELINE DAGG
FRIEDA ABELE

o0o

MR. YOUNG: Yesterday the government moved by order to show cause to compel the American Arbitration Association to turn over various documents the AAA discovered they had not previously produced pursuant to subpoena.

We are now here at 9:40 at this continuation of the deposition that was adjourned October 16th.

This deposition is for the purpose of identifying the documents produced by the AAA pursuant to the aforementioned subpoena.

After argument yesterday before Judge Motley on the record the AAA was instructed to

turn over the documents in the two cartons of materials they had found, which they represented were the only remaining documents in their possession related to the subject union election.

They were also instructed to turn over financial records that relate to the 1971 union election, that is the financial records of the AAA, except by stipulation they did not have to turn over those records reflecting payroll of individuals hired to count balance lots during the course of that election of officers.

The AAA was to have a representive properly designated identify the cartons as containing the remaining materials to be supplied, and this representative was to do so at the office of the United States Attorney before a court reporter.

Once the material delivered here was identified representatives of the government would proceed to mark for identification each item contained in the cartons delivered by the AAA and properly identified by the AAA. The marking was to be done in the presence of a court reporter, a nonpartisant official, with the court reporter swearing that each document was marked as subsequently

identified on the record.

The appearance before Judge Motley was in chambers beginning at approximately 5:30. As we left chambers, attorney for the AAA Rosemarie S. Page explained that she would call either myself or Mr. Lawyer or Mr. O'Hanlon, who is from the Labor Department, as soon as possible this morning, October 24.

We had offered to provide a government vehicle to transport the representative of the AAA together with the documents to the deposition.

It is now 9:50, no one from the AAA has appeared nor called as of this moment. I would ask that we recess until 10:30, at which times I would like the court reporter to come back to this room.

(Recess)

MR. YOUNG: It is now 10:40. At 10:05 Miss Rosemarie Page called to say that they were ready with two large transfiles containing documents, a file with certain financial records and two separate envelopes containing financial records, ready for someone to come pick them up.

A Frieda Abele would be the representative

of the AAA properly designated to identify these documents and that this woman would accompany the documents here for appropriate identification on the record.

Mr. O'Hanlon left by car to pick up the documents and Ms. Abele at approximately 10:50, and we are just awaiting their return.

(Recess)

MR. YOUNG: It is now 12:10. Mr. O'Hanlon and Mrs. Dagg have returned and brought with them Mrs. Frieda Abele, who has apparently brought with her some material.

Mrs. Abele, can you state your position with the AAA?

MRS. ABELE: I am a part-time employee of the election department of the American Arbitration Association.

MR. YOUNG: Can you identify generally what you brought with you?

MRS. ABELE: Two cartons, three files and some loose material in the box.

MR. YOUNG: Where are the three files that you are talking about?

MRS. ABELE: In this white box. Three

yellow files.

MR. YOUNG: Are these the three that I am holding?

MRS. ABELE: Yes.

MR. YOUNG: This is the box that contains the loose material.

MRS. ABELE: Yes, sir.

MR. YOUNG: This is one box?

MRS. ABELE: Yes.

MR. YOUNG: That on the chair is the other box?

MRS. ABELE: Right.

MR. YOUNG: Do you have authority to swear on behalf of the AAA that the material you have brought with you is the material we have requested in connection with the 1971 election of union officers for the IOMMA&P?

MRS. ABELE: Well, I was designated to indicate that the transfiles and files are from the record of the American Arbitration Association.

MR. YOUNG: And they are related to the --

MRS. ABELE: The IOMM&P election.

MR. YOUNG: So you were designated for that purpose?

hcjw

MRS. ABELE: Yes.

MR. YOUNG: In other words, all this information, the documents that we have just pointed out are the files and the only files that you know of?

MRS. ABELE: That I know of.

MR. YOUNG: What I would like to do at this point is to ask the court reporter to mark these various documents for identification generally in your presence, which will not take more than a couple of minutes.

MR. ABELE: Okay.

MR. YOUNG: Off the record.

(Discussion held off the record)

MR. YOUNG: Let the record indicate that we will begin these identifications with the letter M. This does not mean that we have necessarily skipped the identification of any intervening documents between the last session and this session.

It is just for our own convenience that we are starting with M.

Mr. Reporter, may I ask that you mark this, it's called a transfile, as Government's

Exhibit M for identification.

(Transfile marked Government's Exhibit M for identification)

xxxx

MR. YOUNG: I note that this Government's Exhibit M appears not to be sealed. However, Mrs. Abele, this is the condition in which you brought it. Nobody has opened it, is that right?

MRS. ABELE: That is right.

MR. YOUNG: What I would like to do is since we will begin identifying the loose documents first, I am going to just seal this until we get to the point where we will identify the contents in front of the court reporter.

Mr. Court Reporter, if you will just sort of initial the seal, I would appreciate it because you will at some point witness the breaking of that seal.

(Reporter complies)

MR. YOUNG: The next item is the other box that I ask be marked as Government's Exhibit N.

Would you mark this please as Government's Exhibit N.

(Box marked Government's Exhibit N for identification)

xxxx

MR. YOUNG: This box also appears to be unsealed.

Mrs. Abele, this is the condition in which you brought this box down here and it hasn't been open since you brought it down here.

MRS. ABELE: Yes.

MR. YOUNG: As with the previous exhibit I am sealing this one until such time as we can identify the documents contained herein, and Mr. Court Reporter, may I ask you to appropriately initial the seal.

(Reporter complies)

MR. YOUNG: I would like to next mark these folders. May I ask the court reporter to mark each of these three folders as Government's Exhibits O, P and Q appropriately.

(Folders marked Government's Exhibits O, P and Q respectively for identification)

xxxx

MR. YOUNG: Mr. Reporter, I would like to note that we are putting each of those folders and the documents contained therein in separate envelopes which temporarily we will seal for later identification.

If you would be kind enough to initial

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the seal I would appreciate it.

(Reporter complies)

MR. YOUNG: With respect to this small box of material, may I ask that the box be marked as Government's Exhibit R.

(Box marked Government's Exhibit R for identification)

xxxx

MR. YOUNG: We have just covered this box which had no cover, leaving the contents in therein and sealed it appropriately for later identification of the contents in view of the time and everyone's apparent desire to go to lunch.

Mr. Reporter, would you mark a number of these seals on this box.

(Reporter complies)

MR. YOUNG: We have now identified and marked all the documents you have brought down with you, is that right, Mrs. Abele?

MRS. ABELE: Yes, sir.

MR. YOUNG: And you do swear that these are the documents associated with the union election we have discussed, 1971 election of the IOMM&P officers?

MRS. ABELE: To my knowledge.

MR. YOUNG: You were instructed to bring

these down by officials of the AAA?

MRS. ABELE: Yes.

MR. YOUNG: Before you leave, we neglected to have you sworn, and ask the reporter to accommodate us.

Would you so swear in the witness.

F R I E D A A B E L E , was duly sworn by the Court Reporter and Notary Public of the State of New York.

MR. YOUNG: You have just sworn to all that you have said was the truth, is that correct?

MRS. ABELE: Yes, sir.

MR. YOUNG: You mentioned that you were a part-time employee. You were asked to come down here as a part of your employment responsibilities, is that right?

MRS. ABELE: Yes.

MR. YOUNG: Thank you. I think what we will do now is to take a quick luncheon recess and return here to identify these documents and eventually place the identification on the record.

At this point, Mrs. Abele, I appreciate

very much you coming down here. You are excused. I will fill out this witness attendance certificate which you can bring down to the marshal for payment.

I would like the record to note that we are now breaking at 12:30. We will resume as quickly as possible.

(Time noted: 12:30)

(Luncheon recess)

A F T E R N O O N S E S S I O N

2:00 P.M.

MR. YOUNG: It is now 2:00 p.m. and we will proceed to unseal one package at a time and identify the contents of that package and the other packages as we go along.

Why don't we start with Government's Exhibits O, P and Q, in that order. We had placed Exhibits O, P and Q in the folders and the contents in the folders into three envelopes that we have sealed.

Mr. Reporter, I would like you to indicate whether the seals are as we left them prior to the luncheon recess. Are they sealed the way they were?

THE REPORTER: Yes.

MR. YOUNG: Let's open these three exhibits.

I am now opening these three sealed folders.

(Recess)

MR. YOUNG: We should proceed to identify what we have now marked for the record.

Taking Government Exhibit O, I note that we have marked the contents of this folder as follows: 01 through 077, each document having been initialed by Brian O'Hanlon, BPO, and the reporter, Mr. Howard Chaim, HC. Is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: Going to Government's Exhibit P marked for identification I note that the contents in this folder marked from P1 through P113. Each document has been so marked with an identifying number and initialed by Jacqueline Dagg, JD, and the court reporter, Mr. Chaim, HC. Is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: Government's Exhibit Q is another folder. I note that the contents of this

folder have been identified as Q1 through Q12, and they have been initialed by both the reporter, HC, and Mrs. Dagg, JD.

You have witnessed this too, isn't that correct, Mr. Reporter?

THE REPORTER: Yes.

MR. YOUNG: We will now proceed to open Government's Exhibit R.

First, Mr. Reporter, this box is sealed the way we left it prior to the luncheon recess, is that right?

THE REPORTER: Yes.

MR. YOUNG: You have noted all your initials on the seals, is that correct?

THE REPORTER: Correct.

MR. YOUNG: We will now proceed to open it.

(Recess)

MR. YOUNG: Now that we have unsealed Government's Exhibit R and have marked them, it appears that they have been marked as follows: We have identified certain documents as running from R1 through R35. These are, except for R35, which is one piece of note paper, dated 1/27/72, the rest

envelopes that were kept together by a rubber band. I note that each document, R1 through R35, has been initialed by both the reporter, Mr. Chain, and Mrs. Dagg, JD and HC.

Do you agree with what I have just said, Mr. Chaim?

THE REPORTER: Yes.

MR. YOUNG: Continuing, I note there are a number of loose documents contained in Government's Exhibit R, and they are identified as running from R36 through R56.

Each of these also have been initialed by JD and HC, is that correct?

THE REPORTER: Correct.

MR. YOUNG: In addition there are -- there appear to be three computer printouts, each one running for quite a few pages. On the pages are names and addresses and some identifying numbers next to each name and address.

The first series that I have taken out have been marked R300 through R345, each page of these documents has been initialed by BPO and HC, and they appear to be separate sheets that had once been joined by perforated edges. Is that correct,

Mr. Reporter?

THE REPORTER: Yes.

MR. YOUNG: The next computer printout, approximately an inch thick, has been identified as document R600 through R601. On one side of this document I note is the identifying symbol R600, on the other side is R601. Both sides have been initialed by Mr. O'Hanlon, BPO, and Mr. Chaim, HC.

The pages between them have not been so marked in that there are many of them, but the document appears to be one continuously linked document, that is the pages are still joined by perforated edges, and I further note that on the edges of this computer printout are a series of numbers beginning with what appears to be the second page, number 1866 through to the next to the last page, 2060.

The third computer printout is virtually identical to the second. It is an inch thick computer printout, and on one side we have marked the number R401 and on the other side R400. Both sides have been initialed by Mrs. Dagg, JD, and Mr. Chaim, HC.

As with the previous exhibits, there are numbers on the edge of the page running from what

appears to be the second page numbered 1666 through page 1860 on the next to the last page.

Mr. Reporter, do you agree with both this and the previous exhibit as I have described them accurately?

THE REPORTER: Yes.

MR. YOUNG: I wish to note that we have selected identifying numbers associated with this Government's Exhibit R and may have skipped a series of numbers merely for our own convenience sake.

Mr. Reporter, has everything that exists in Government's Exhibit R been identified?

THE REPORTER: Yes.

MR. YOUNG: Let us now proceed to identify the contents contained in Government's Exhibit N.

Mr. Reporter, I note that this box is still sealed. Is it sealed the way we have left it prior to the luncheon recess?

THE REPORTER: Yes.

MR. YOUNG: Let us open the seal.

It appears that in Government's Exhibit N there are balance ballots, orange in color, similar to those that we have identified in previous govern-

ment's exhibits. There are also envelopes of gray, orange and green in color that are addressed to the AAA care of safe deposit vault, American Bank and Trust Company in the Bronx, having stamped on the front also IOMM&P election ballot, each one with a different number on the bottom.

I also note there are grey balance ballots and a few documents.

Prior to our definite identification of the contents of Government's Exhibit N, we shall proceed to open Government's Exhibit M to determine how much longer this process will take.

Mr. Reporter, turning our attention to Government's Exhibit M, is this box sealed in the manner in which we had sealed it prior to our luncheon recess?

THE REPORTER: It is.

MR. YOUNG: We will proceed to open this.

I note that in Government's Exhibit M there appears to be six rows of envelopes and unused balance lots. Taking one sample of the balance ballots, I note that these are official balance lots called Constitutional Amendments. We will identify all these at some subsequent date.

I also note that there are balance ballots unmarked, that is apparently unused, for the subject election of 1971 election of officers.

(Recess)

MR. YOUNG: In view of the fact that it is now 4:00 o'clock and there are voluminous documents in each of these exhibits, I think it best that we place the cartons back together again with the contents inside and appropriately sealed.

We have closed those two Government's Exhibits M and N with their contents inside that were originally contained therein.

You have witnessed that, have you not, Mr. Reporter?

THE REPORTER: Yes.

MR. YOUNG: And we have sealed these boxes with scotch tape and the court reporter has appropriatedly marked his initials on the scotch tape, is that correct, Mr. Reporter?

THE REPORTER: Yes.

MR. YOUNG: At some future date soon, perhaps tomorrow, we will resume the identification of the contents in these two boxes in more detail.

At this point, let's adjourn subject to

his further identification.

(Time noted: 4:20 p.m.)

o0o

CERTIFICATE

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

I, HOWARD CHAIM, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That FRIEDA ABELE, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of October, 1974.

Howard Chaim

Howard Chaim

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Deposition of American Arbitration Assoc. dated November 19, 1974

U.S. DISTRICT COURT
FILED
JUN 9 - 1975
S.D. OF N.Y.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

JAMES D. HODGSON, Secretary of Labor, United States Department of Labor,

Plaintiff,

-against-

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS, INTERNATIONAL MARITIME DIVISION, ILA, AFL-CIO,

Defendant.

72 Civ. 5031 (CBM)

November 19, 1974
9:00 o'clock a.m.

Deposition of AMERICAN ARBITRATION ASSOCIATION taken pursuant to subpoena and court order, for the purpose of identifying documents produced pursuant to subpoena, at the United States Court House, Foley Square, New York, New York, on November 19, 1974, at 9 a.m., before Morris I. Kligman, a Certified Shorthand Reporter and Notary Public of the State of New York.

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APPEARANCES:

PAUL J. CURRAN, Esq.,
United States Attorney for the
Southern District of New York,
DENNIS YOUNG, JR., Esq. and
BOBBY C. LAWYER, Esq.,
Assistant United States Attorneys

(No appearance for Defendant.)

Also Present:

BRIAN O'HANLON

JACQUELINE DAGG

JENNIE TORANI

- - -

MR. YOUNG: This is a continuation of a deposition of the American Aribtration Association for the purpose of identifying documents produced by the AAA pursuant to a subpoena duces tecum served on the AAA September 27, 1974.

Pursuant to Judge Motley's order, the AAA had been instructed to turn over certain documents they had located subsequent to their original production of documents.

We had proceeded to identify most of these

documents and had them appropriately identified on the record but had not completed such identification.

The process of identification was to have the court reporter witness the documents as they were withdrawn from boxes supplied by the AAA. The court reporter, as a non-partisan officer of the court, was to appropriately initial either the documents or such other pieces of paper that would identify those documents.

We recessed October 24, 1974, having all that was produced by the AAA, except for the documents contained in two large transfiles. These two transfiles had been marked for identification as Government Exhibits M and N.

We preliminarily explored the contents of these two exhibits, and in view of the time on that day asked the court reporter to re-seal those exhibits with the contents contained therein.

This process was completed, and I note that we adjourned at 4:20 p.m. that day.

The court reporter that day was Mr. Howard Chaim, a shorthand reporter and notary public of the State of New York.

Before we proceed, I would also like to note for the record that I spoke to Mr. Reginald Jones of

Marvin Schwartz' office, and informed him that we would proceed this morning at 9 o'clock with the continued identification of the AAA documents, and invited him to attend if he wished -- he or anybody in that office to attend.

I note for the record that no one has appeared on behalf of Mr. Schwartz, attorney for the defendant.

Now I would like to ask Mr. Chaim, the court reporter, a couple of questions.

I think perhaps he had better be sworn.

H O W A R D C H A I M, being first duly sworn by the Notary Public, testified as follows:

EXAMINATION

BY MR. YOUNG:

Q Mr. Chaim, are you the court reporter who previously had taken the transcript, which I show you, dated October 24, 1974 (handing)?

A Yes.

MR. YOUNG: I would like to have it marked as Plaintiff's Exhibit 1 for identification, as of today's date.

xx

(Transcript was marked Plaintiff's Exhibit 1

for identification as of November 19, 1974.)

BY MR. YOUNG:

Q Are you the court reporter who witnessed the identification of the documents produced by the AAA on that day?

A I am.

Q And you appropriately initialled those documents that we asked you to initial?

A Yes, I did.

Q You were present and indeed witnessed the opening of Government's Exhibits M and N, did you not?

A Yes.

Q And you saw us place the contents back in those exhibits, that is, noting that we never really took them out in the first place, and closed those transfiles; is that right?

A Yes, that is true.

Q Did you seal these exhibits?

A Yes, I did.

Q In what way?

A With scotch tape and then placed my initials on the scotch tape in a few different places.

Q I would like you to examine the two exhibits,

M and N, and ask you if they are still sealed in the fashion that you had sealed them?

A (After examining) They appear to be -- they are.

Q They are?

A Yes, sir.

Q Those are your initials on the scotch tape?

A Yes, they are.

MR. YOUNG: I would also like to represent that these transfiles have not been opened by anyone since they were sealed by Mr. Chaim.

The court reporter present taking this record is Morris I. Kligman --

Is that right, Mr. Court Reporter?

THE REPORTER: Yes, sir.

MR. YOUNG: And you have witnessed Mr. Chaim's testimony here this morning?

THE REPORTER: Yes, sir.

MR. YOUNG: Mr. Reporter, you will be with us until we identify the documents contained in these two exhibits, M and N, will you?

THE REPORTER: Yes.

MR. YOUNG: In the presence of both Mr. Chaim

and Mr. Kligman, I would like to open these exhibits with Mr. Chaim -- being Exhibits M and N, and we will do so right now.

(Exhibits M and N opened by Young and Mr. Chaim.)

MR. YOUNG: In view of the fact that Mr. Kligman will be with us for the day as the witness designated for the purpose of these documents, I see no further reason for Mr. Chaim to be present.

Mr. Chaim, if you would like to, you may leave.

(Whereupon, Mr. Chaim left the room at 9:35 a.m.)

MR. YOUNG: Let the record show that upon opening these exhibits, M and N, we discovered in Exhibit M the envelopes addressed to the AAA, c/o Safe Deposit Vault at the American Bank & Trust Company, on which is noted I.O.M.M.P. Election Ballot, and we found approximately two rows of said ballot envelopes running across the box. The remaining four rows inserted vertically, as were the envelopes which appear to consist predominantly of unused envelopes and unused ballots of various kinds -- gray, orange, blue and green in color.

mkbr

Some of the ballots may not be related to the 1971 election of officers, in which case everything will eventually be identified for the record.

In Exhibit N I note there appears to be three rows of envelopes, similarly addressed to the AAA, which will henceforth be known as return envelopes, because it appears that the ballots were returned to the AAA, c/o American Bank & Trust Company in these envelopes. Those three rows consist of envelopes vertically placed running across the box.

There is another row of vertically placed bundles of similar envelopes. They also appear to be marked ballots, gray and orange in color.

What we will proceed to do now is to take all the return envelopes and appropriately identify them.

I wish to note for the record that we will check all the return envelopes from both exhibits M and N, and eventually they will be identified by the number on the envelope which appears in the lower left-hand corner on the front side. Each number appears to be different.

Let us recess until the said identification

is completed.

(Identification process goes on.)

MR. YOUNG: It is now 12:45 p.m. During that period of time we have segregated the outside return envelopes by months: September, October, November and December, and a number that appeared to be unclear or have no monthly postmark date on them, and we have put them into a box marked "No Date or Unclear".

Having not yet completed our identification process, and intending to take our usual luncheon recess, we have first placed the outside return nevelopes into a number of boxes designated by months and "No Date". We have reached the point where we have been able to segregate the outside return envelopes by month, based on the postmarks, and have inserted the envelopes into all the boxes marked by those months. We have only thus far proceeded to identify the September ballots by number. At this point we have asked the court reporter, Mr. Kligman, to place the ballots in the appropriate boxes and to seal them with scotch tape, which he has done.

Mr. Kligman, what I have stated is true, is it not?

THE REPORTER: Absolutely.

MR. YOUNG: And you saw us place all the envelopes we found in exhibits M and N, one way or another in these boxes which we have marked as September, October, November and December and "No Date or Unclear"?

THE REPORTER: Right.

MR. YOUNG: And you have initialled the scotch tape seal, have you not?

THE REPORTER: I have, on each box.

MR. YOUNG: We have also left the documents remaining in Government's Exhibits M and N that we did not extract, which are still found in Exhibits M and N; is that correct?

THE REPORTER: Yes, that is correct.

MR. YOUNG: And you have resealed these boxes in the same fashion as the other boxes, have you not?

THE REPORTER: That is correct.

MR. YOUNG: We will now recess.

(Whereupon, a recess was taken until 1:50 p.m.)

AFTERNOON SESSION

1:50 p.m.

(Processing work continues.)

MR. YOUNG: It is now 2 o'clock, and we will resume our identification of the documents.

Mr. Court Reporter, are these boxes sealed the way the boxes indicated for September, October, November and December and "No Date or Unclear", sealed in the fashion in which we left them before the luncheon recess?

THE REPORTER: Having inspected all of them, they are in the same identical condition with the seals unbroken.

MR. YOUNG: And that goes for the boxes identified as Government's Exhibits M and N?

THE REPORTER: That is correct.

MR. YOUNG: Mr. Reporter, will you please break the seals of the box marked September.

THE REPORTER: I will.

(Seal broken by the reporter.)

MR. YOUNG: Therein you find, do you not, the ballots on which appear the September postmark?

THE REPORTER: That is correct.

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MR. YOUNG: We will now proceed to identify each envelope by recording the number appearing on the front lower left corner on separate pieces of paper, after which we will ask you, Mr. Reporter, to verify that the identification is accurate.

THE REPORTER: Yes.

(Identification process continuing.)

MR. YOUNG: It is now 3:45 p.m. We have finished identifying those outside return envelopes postmarked September 1971, which have been placed in numerical order and have been identified on a number of master lists as follows:

I would like to ask the court reporter to mark these master lists for identification as Exhibits S-1 through S-21. These master lists reflect the numbers appearing on the outside return envelopes postmarked in September 1971.

Is that correct, Mr. Reporter?

THE REPORTER: Yes.

(Master list was marked Exhibits S-1 through S-21 for identification.)

xx

MR. YOUNG: And on these exhibits, S-1 through S-21 for identification, the government

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representatives here have placed these numbers appearing on the outside of the envelopes in numerical order, as found on the envelopes.

On each of these exhibits, S-1 through S-21 for identification their appear the initials of one of the representatives of the government in this room, either Mr. O'Hanlon, Mrs. Dagg or Miss Torani, and each one also appear the initials of the court reporter, Mr. Kligman; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: In addition to these exhibits I would like to have marked Exhibits 22, 23 and 24 for identification.

(Master lists marked Exhibits S-22, 23 and 24 for identification.)

xx

MR. YOUNG: These documents, marked Exhibits S-22, 23 and 24 for identification, reflect the numbers on the outside return envelopes which have a postmark date in September 1971 on them, and are orange in color.

Is that correct, Mr. Reporter?

THE REPORTER: Yes, that is correct.

MR. YOUNG: These three pages also have the initials of Mrs. Dagg, "J.D." and Mr. Kligman, "MK",

appearing on each page; is that correct?

THE REPORTER: That is correct.

3 MR. YOUNG: I will ask to have marked for identification this document as Exhibit S-25 for identification.

xx (Document was marked Exhibit S-25 for identification.)

MR. YOUNG: This document, marked Exhibit S-25 for identification, reflects those outside return envelope numbers, with a postmark date of September 1971 which are green in color.

Is that correct, Mr. Reporter?

THE REPORTER: Yes, that is correct.

MR. YOUNG: And you have initialled this document as well as Mrs. Dagg; is that correct?

THE REPORTER: Yes, that is correct.

MR. YOUNG: By initialling all these documents, Exhibits S-1 through S-25 for identification, you have witnessed that all the outside return envelopes have been turned over to us by the AAA -- that is, all the outside envelopes found in the transfiles, Exhibits M and N, the envelopes postmarked in September that have now been recorded on those exhibits.

Is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: In view of the late hour and the hard work entailed, we will continue tomorrow morning at 9 o'clock.

The remaining outside return envelopes are still sealed in their respective boxes; is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: As well as the transfiles, Exhibits M and N are still sealed; is that correct?

THE REPORTER: That is correct..

MR. YOUNG: In the same manner in which you sealed them prior to the noon or luncheon recess?

THE REPORTER: That is correct.

(Whereupon, an adjournment was taken at 4:15 p.m. until November 20, 1974, at 9:00 a.m.)

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S-25 (id)	Return envelope numbers, postmark date September 1971, green in color.	14

Deposition of American Arbitration Assoc. dated November 20, 1974

S. DISTRICT COURT
FILED
JUN 9 - 1975
S. D. OF N. Y.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- x

JAMES D. HODGSON, Secretary of Labor :
United States Department of Labor,

: 72 Civ. 5031
Plaintiff : (CBM)

v. :

INTERNATIONAL ORGANIZATION OF MASTERS :
MATES AND PILOTS, INTERNATIONAL MARI- :
TIME DIVISION, ILA, AFL-CIO,

Defendant. :

- x

November 20, 1974,
9 A.M.

Continued deposition of American Arbitration Association, taken pursuant to subpoena and court order, for the purpose of identifying documents produced pursuant to subpoena at the United States Courthouse, Foley Square, New York, N.Y., before Morris I. Kligman, a Certified Shorthand Reporter and Notary Public of the State of New York.

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Appearances:

PAUL J. CURRAN, ESQ.,
United States Attorney for the
Southern District of New York,
Atrorney for Plaintiff,
Dennison Young, Esq.,
Bobby C. Lawyer, Esq.,
Assistant United States Attorneys.

(No appearance for the defendant.)

Also Present:

Brian O'Hanlon

Jacqueline Dagg

Jennie Torani

--

MR. YOUNG: It is now 9 o'clock. This is a continuation of the identification of the documents produced by the American Arbitration Association, pursuant to subpoena.

We left off yesterday identifying certain outside return envelopes identified with a postmark date in September, 1971.

We will now proceed to identify those outside envelopes for the months of October, November and December, 1971, and those that are in the box marked "unclear", in that order.

Perhaps we can start with those dated for the month of October, 1971.

Are all the boxes yet to be identified containing outside envelopes in them still sealed in the manner in which you sealed them yesterday, Mr. Reporter?

THE REPORTER: Yes, they are.

MR. YOUNG: Those goes for the two exhibits, M and N, is that correct?

THE REPORTER: Yes, that is correct.

MR. YOUNG: Then let us proceed to open the box--may I ask you to open the box for the month of October, 1971, containing outside envelopes in them so that we may proceed to identify them.

mkh

THE REPORTER: I will do so.

(Box for the month of October opened by the reporter.)

(At 9:40 A.M. Miss Mary Anne Muller and Miss Rona Sokolsky entered the room.)

MR. YOUNG: It is now 9:40 A.M. Miss Mary Anne Muller and Miss Rona Sokolsky have entered the room. They are with the Department of Labor and are here to assist us in the identification process.

(Processing work continued.)

MR. YOUNG: It is now 11:30 A.M. We have completed the identification of the outside return envelopes that have the postmark of October, 1971, on them.

We have marked on master lists in numerical order the numbers appearing in the lower left-hand corner of each envelope, such that all the envelopes with the postmark October, 1971, have been recorded.

Is that correct, Mr. Reporter?

THE REPORTER: Yes.

MR. YOUNG: The reporter has so marked these master lists for identification.

Is that correct, Mr. Reporter?

THE REPORTER: Yes.

MR. YOUNG: Will you please mark these.

(Master lists marked Exhibits S-26 for identification through and including S-53 for identification.)

xx

MR. YOUNG: These master lists now run from Exhibit S-26 for identification through and including S-53 for identification, with one additional page identified as Exhibit S-41A.

Is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: And each page of these master lists has been initialed by one of the representatives of the government whose presence has been noted and by you, Mr. Reporter; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And you compared the number on each envelope with the number appropriately recorded on the master lists; is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: Have you made such comparison with respect to the outside return envelopes for September, 1971, so postmarked on them; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And those are the ones we have

referred to in Exhibits S-1 through S-25 for identification; is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: In other words, these master lists reflect each and every outside return envelope with the postmark September and October, 1971; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: In view of the fact that the remaining outside return envelopes are still sealed, I think we should unseal the next box marked "November" and proceed with the systematic identification of the outside return envelopes contained therein.

THE REPORTER: I will do so.

(Box containing envelopes for the month of November, 1971, unsealed by the reporter.)

b2

MR. YOUNG: It is now 12:30 P.M. We have completed identifying those outside return envelopes on which we have found a postmark November, 1971, and have recorded on master lists the numbers appearing on the lower left front corner of said envelopes.

Will you please mark these master lists.

(Master lists marked Exhibits S-54 through and including S-74 for identification.)

xx

MR. YOUNG: The master lists have been

identified as Exhibits S-54 through S-74 for identification, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: Each master list has been initialed by one of the representatives of the government and by you; is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: Thereby signifying that the recording of the numbers from the outside return envelopes onto the master list is accurate; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: You personally compared the numbers on the master list with the numbers on the outside return envelopes to verify their accuracy; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: Again like in the other boxes, the outside return envelopes vary in color -- some are gray; others are orange and still others are green.

As we have in the past, we have noted on the top of the appropriate master list those outside return envelopes which are green and those which are orange. The remaining master lists record which are gray in color.

Is all that I have said correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: There remains to be identified those outside return envelopes with the postmark December, 1971, and those on which there is an unclear postmark. All those outside return envelopes arestill in the sealed boxes; is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: As are the ballots and other material in Exhibits M and N; is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: It is now 12:40 P.M. We will take our luncheon recess until 1:45 when we will resume the identification.

(Adjourned to 1:45 P.M.)

AFTERNOON SESSION

1:45 P.M.

(Present also: Mr. Steven Biller and Mr. Adam Conti.)

MR. YOUNG: Let the record show that it is now 1:45 P.M. Mr. Steven Biller and Mr. Adam Conti of the Department of Labor are here.

We are resuming the identification process.

Mr. Reporter, all the boxes that were sealed prior to the luncheon recess are still sealed in the same fashion in which we left them, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: Will you please proceed to open the box for December, 1971, containing the outside return envelopes.

THE REPORTER: I will do so.

(Box open)

(Processing identification continued)

MR. YOUNG: It is now 3 P.M. We have completed the identification process with respect to all the o de return envelopes in connection with the postmark December, 1971.

We have recorded on master lists the numbers appearing on the lower front left-hand corner of each

envelope in numerical order on said lists.

I ask that these master lists be identified as Plaintiff's Exhibits S-75 through and including S-92.

(Master lists marked Plaintiff's Exhibits S-75 through S-92 for identification.)

xx

MR. YOUNG: Mr. Reporter, these lists reflect the numbers appearing on the outside return envelopes with the December, 1971, postmark on them, do they not?

THE REPORTER: That is correct.

MR. YOUNG: In each of these exhibits, S-75 through S-92 for identification are initialed by one of the representatives of the government and by you; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And this signifies that the numbers on these lists correspond accurately with the numbers on the outside return envelopes; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: You compared each number on the list with each number on each of the envelopes, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: The envelopes with the December, 1971, postmark, like the others that we have identified, are gray, green and orange in color. There are very few orange and green, and we have appropriately noted on Exhibit S-91 for identification those outside return envelopes with the December, 1971, postmark which are green in color; and on Exhibit S-92 for identification we have appropriately marked those outside return envelopes with the December, 1971, postmark which are orange in color; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: Mr. Reporter, throughout you have observed this whole process, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And everything I have said to date has been accurate, isn't that so?

THE REPORTER: Absolutely so.

MR. YOUNG: If you would, Mr. Reporter, would you please open the box in which we have placed those outside return envelopes on which the postmark was "unclear" or on which there appears no postmark date.

THE REPORTER: I will do so.

(Box opened by the reporter.)

MR. YOUNG: Some of the outside return envelopes

in this category include no postmark identification at all. Do you agree, Mr. Reporter?

THE REPORTER: That is correct.

(Identification process continuing)

MR. YOUNG: It is now 4:20 P.M. We have further identified the outside returned envelopes produced by the AAA pursuant to subpoena.

The envelopes that we have just processed were, for one reason or another, not included among the other outside returned envelopes which we have previously identified as having stamped on them postmark dates for some time during the months of September, October, November and December, 1971. Among these outside returned envelopes that we will identify in more detail shortly, include outside returned envelopes on which the postmark was either missing or unclear, and there are a number on which there is a legible postmark but apparently were not among those for which ballots were counted. Those that I am now referring to, that is, those with legible postmarks have been listed in numerical order on a master sheet identified as Plaintiff's Exhibit S-93 for identification and S-94 for identification.

xx (Master lists marked Plaintiff's Exhibits S-93

xx and S-94 for identification.)

MR. YOUNG: These outside return envelopes in fact are unopened and appear to contain ballots inside or some other document in them; is that correct, Mr. Reporter?

THE REPORTER: That is correct.

b3 MR. YOUNG: Each one of these envelopes has some initials on front of them -- either VR or P-MDP or SNPD. They were found among the contents of either Exhibit M or N rubberband together. On top of this group of envelopes there was included a yellow sheet of paper on which the following appeared:

"Offshore

Not counted because:

Voluntary resignations,

Suspended NDN payment of dues,

or pensioner, non dues-paying."

Do you agree with this description of the envelopes on this yellow sheet, Mr. Reporter?

THE REPORTER: Yes, I do.

MR. YOUNG: In addition, we have identified these unopened envelopes numerically on Plaintiff's Exhibit S-93 and S-94 for identification, isn't that right?

THE REPORTER: That is right.

MR. YOUNG: And on this exhibit, Mr. Reporter, you and a representative of the government, Miss Torani in this case, have placed your initials, is that correct?

THE REPORTER: Yes.

MR. YOUNG: Mr. Reporter, you compared the numbers on this exhibit with the numbers on these unopened envelopes, have you not?

THE REPORTER: That is correct.

MR. YOUNG: And they are identical?

THE REPORTER: That is correct.

MR. YOUNG: Will you please mark these master lists.

(Master lists marked Plaintiff's Exhibits S-95 through S-108 for identification.)

xx

MR. YOUNG: Mr. Reporter, you have marked a number of master lists as Plaintiff's Exhibits S-95 through and including S-108 for identification, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And these master lists reflect the numbers that appear on the "unclear" or unpostmarked outside return envelopes on the outside lower left front of the outside return envelopes, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: You have examined these and compared each batch of unclear or unmarked outside return envelopes with the master list, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And you have placed on each page, that is, each exhibit, your initials on which there also appear the initials of one of the government's representatives, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And this signifies that the comparison between the ballots and the list is accurate, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: Will you please mark these master lists for identification?

(Master lists marked Plaintiff's Exhibits S-109 through S-111 for identification.)

xx

MR. YOUNG: Now there are three other lists which you have marked as Plaintiff's Exhibits S-109, 110 and 11, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: Plaintiff's Exhibit 109 for identification reflects the numbers appearing on the outside return envelopes which were green in color and

on which the postmarks appear unclear or do not appear at all; is that correct?

THE COURT: That is correct.

MR. YOUNG: You and Miss Torani initialed this Exhibit S-109 for identification, signifying that the comparison with the numbers on the lower left-hand front corner of the envelopes was accurate, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: Exhibit S-110 for identification reflects the numbers appearing on the outside return envelopes which are orange in color and also have either no postmark at all or an unclear postmark, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And the compared the numbers on these outside envelopes with the numbers on this list, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And it is so indicated by your initials and Miss Torani's initials on this exhibit as well, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And Exhibit S-111 for identification

notes two outside return envelopes, one orange in color, number 194, and one gray, number 7166; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: The orange envelope appears never to have been opened despite the fact that it is legibly postmarked. This was found in this condition. Is what I have said correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: There appears to be a secret ballot inside, from which we can determine by viewing through the envelope on the reverse side the words "secret ballot", is that correct?

THE REPORTER: That is correct.

MR. YOUNG: The gray envelope, number 7166, is unopened. However, we did find this outside return envelope with another envelope contained therein marked "secret ballot" unopened; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And these two envelopes with their contents have been identified on Exhibit S-111 for identification accurately, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: You and Miss Torani initialed this

exhibit, too?

THE REPORTER: Yes, that is correct.

MR. YOUNG: Now with regard to the outside return envelopes that we have extracted from Exhibits M and N, have we identified all of them?

THE REPORTER: Yes.

MR. YOUNG: Exhibits M and N remain sealed in the fashion in which you sealed them previously, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: It is now 4:40 P.M. We will continue tomorrow at 9:30, at which time we will open Government's Exhibits M and N and identify the remaining contents, and to the extent that any outside return envelopes remain, the identification process will be completed appropriately.

Mr. Reporter, you do not recall seeing any other of an identical nature, that is, completed outside return envelopes with return names and addresses on them, do you?

THE REPORTER: No, I haven't.

MR. YOUNG: That is, when we opened them in the first instance, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: Let us now recess until tomorrow morning.

(Adjourned to November 21, 1974, at 9:30 A.M.)

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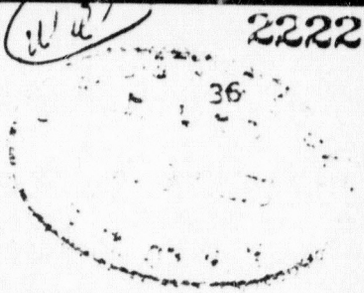
Deposition of American Arbitration Assoc. dated Noevmber 21, 1974



UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- x

JAMES D. HODGSON, Secretary of Labor :
United States Department of Labor,
: 72 Civ. 5031
Plaintiff,
:
v.
:
INTERNATIONAL ORGANIZATION OF MASTERS :
MATES AND PILOTS, INTERNATIONAL
MARITIME DIVISION, ILA, AFL-CIO,
:
Defendant.
:

- x

November 21, 1974
9:30 A.M.

(Deposition continued)

Present:

Mr. Young
Mr. Lawyer

Also Present:

Mr. O'Hanlon
Mrs. Jacqueline Dagg
Miss Jennie Torani

Also Present:

Mr. George Forakis
Mr. Steven Kusiel

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MR. YOUNG: It is now 9:30 A.M. May the record reflect that in addition to the other representatives of the government Mr. George Forakis and Mr. Steven Kusiel from the Department of Labor are present.

Let us continue with the identification process.

Yesterday we had completed identification of the outside return envelopes which we had found in Plaintiff's Exhibits M and N. Those envelopes which had return addresses on them were completed in most respects, the numbers appearing in the front left-hand corner of the envelope.

We would like to ask you, Mr. Reporter, first of all, are Plaintiff's Exhibits M and N sealed in the same fashion in which you sealed them previously?

THE REPORTER: Yes, they are.

MR. YOUNG: Would you be kind enough to open both of them, M and N, at this time.

THE REPORTER: I will.

(Plaintiff's Exhibits M and N now opened by the reporter.)

MR. YOUNG: Mr. Reporter, will you please examine the contents of those boxes and see whether there are any other outside return envelopes identical to the ones we have previously identified which have the

return information requested completed on the said envelopes.

THE REPORTER: (After examining) None that I can see.

MR. YOUNG: There appear to be a number of blue envelopes which have been postmarked and which have return names and addresses and membership numbers on them, is that right?

THE REPORTER: That is correct.

MR. YOUNG: And these envelopes, however, are different from those we had identified yesterday, is that right?

THE REPORTER: That is correct.

MR. YOUNG: These envelopes are addressed to the American Arbitration Association, room 2300, 151 West 51st Street, New York, New York 10019; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: And the envelopes that we had previously processed, entitled "Outside return envelopes", were those addressed to the American Arbitration Association, c/o Safe Deposit Vault, American Bank & Trust Company, 301 East Fordham Road, Bronx, New York 10458; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: There are a number of blank outside return envelopes in Exhibit M, is that correct?

THE REPORTER: Yes.

MR. YOUNG: But these appear never to have been mailed; these are just extra envelopes which have no return information on them; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: We will identify them shortly for the record, but as of this moment there appear to be no more completed outside return envelopes; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: Let us proceed now with the appropriate identification process for the remaining contents in Exhibits M and N.

(Identification process continued)

MR. LAWYER: It is now 11:15 A.M. The identification process has now been completed in connection with Exhibit M for identification.

Mr. Reporter, we shall now proceed to read the documents into the record.

Will you please mark these 18 batches of gray ballots as Exhibit M-1.

mkh

(18 batches of gray ballots marked Plaintiff's Exhibit M-1 for identification.)

MR. LAWYER: May the record reflect that that constitutes 774 gray ballots which refer to the Offshore Division, unused ballots.

Will you please mark this master list of gray ballots, numbering 774, as Exhibit M-2.

(Master list marked Plaintiff's Exhibit M-2 for identification.)

MR. LAWYER: Will you please mark as Plaintiff's Exhibit M-3 for identification this batch of 33 gray ballot envelopes, unused.

(Batch of 33 gray ballot envelopes unused marked Plaintiffs' Exhibit M-3 for identification.)

MR. LAWYER: Mr. Reporter, will you please mark six batches of orange colored ballots, unused.

(Six batches of orange colored ballots, unused marked Plaintiff's Exhibit M-4 for identification.)

MR. LAWYER: These consist of 363 orange ballots, unused.

Mr. Reporter, will you please mark these two batches of orange colored envelopes as Plaintiff's Exhibit M-5 for identification.

(Two batches of orange colored envelopes
xx marked Plaintiff's Exhibit M-5 for identification.)

MR. LAWYER: These consist of 180 orange colored envelopes.

Mr. Reporter, will you please mark these three batches of blue ballots, unused, as Plaintiff's Exhibit M-6 for identification.

(Three batches of blue ballots, unused
xx marked Plaintiff's Exhibit M-6 for identification.)

MR. LAWYER: These ballots in Exhibit M-6 for identification purport to refer to Constitutional Amendments. The total of the three batches is 389 ballots.

Mr. Reporter, will you please mark one batch of blue envelopes as Plaintiff's Exhibit M-7 for identification.

(One batch of blue envelopes marked Plaintiff's
xx Exhibit M-7 for identification.)

MR. LAWYER: May the record reflect that Exhibit M-7 for identification consists of 34 unopened blue envelopes.

Mr. Reporter, will you please mark as Exhibit M-8 73 green unused envelopes.

(Batch of 73 green unused envelopes marked

Plaintiff's Exhibit M-8 for identification.)

MR. LAWYER: Mr. Reporter, will you please mark as Plaintiff's Exhibit M-9 for identification 70 green unused ballots.

(Batch of 70 green unused ballots marked Plaintiff's Exhibit M-9 for identification.)

MR. LAWYER: Mr. Reporter, will you please mark as Exhibit M-10 for identification, which consists of one secret white ballot envelope.

(One secret white ballot envelope marked Plaintiff's Exhibit 10 for identification.)

MR. LAWYER: Mr. Reporter, will you please mark as Exhibit M-11 for identification 22 blue ballots pertaining to Local 802, Musicians Election, AFM.

(Batch of 22 blue ballots marked Plaintiff's Exhibit M-11 for identification.)

MR. LAWYER: Mr. Reporter, will you please mark as Plaintiff's Exhibit M-12 for identification five white undeliverable sealed envelopes.

(Five white undeliverable sealed envelopes marked Plaintiff's Exhibit M-12 for identification.)

MR. LAWYER: Mr. Reporter, will you please mark as Plaintiff's Exhibit M-13 for identification two unused outer white envelopes.

mkh

(Two unused outer white envelopes marked Plaintiff's Exhibit M-13 for identification.)

MR. LAWYER: Will you please mark as Exhibit M-14 for identification a one-page letter dated November 16, 1971, from Maritime Overseas Corp., with reference to an address correction.

(One-page letter dated November 16, 1971, marked Plaintiff's Exhibit M-14 for identification.)

MR. LAWYER: Will you please mark as Plaintiff's M-15 for identification three gray envelopes addressed to the American Arbitration Association. I will read the numbers of these three envelopes into the record. Those numbers are: 3252, 6009 and 6976.

(Three gray envelopes marked Plaintiff's Exhibit M-15 for identification.)

(Identification process continued)

MR. YOUNG: It is now 12:05 P.M.

Mr. Reporter, the identification process of the documents contained in Exhibit N appears to be completed.

I note that we have identified ballots, gray in color, which appear to be ballots submitted by the members of the Offshore Division for the Port of New York. As with all ballots that we have seen in

relation to this election of officers. One side is for the candidates for International office, and the other side is for the candidates for subordinate officers-- in this case with respect to the gray ballots, the Offshore Division office for the Port of New York.

Have I described these gray ballots accurately, Mr. Reporter?

THE REPORTER: Yes.

MR. YOUNG: We have counted these gray ballots and they have been put together in four batches.

I will ask the reporter to mark these as Plaintiff's Exhibit N-1 for identification. There are 960 of these gray ballots -- three piles of 250 each and one pile of 210.

(960 gray ballots marked collectively as Plaintiff's Exhibit N-1 for identification.)

xx

MR. YOUNG: These ballots have been counted by representatives of the government -- counted first by one individual and then by another as a precautionary measure.

On the top of each batch there appears a yellow piece of paper with the total number of ballots in each batch, and on each piece of paper it has been initialed by both representatives of the government in

connection with each batch.

Is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: This was so with respect to the exhibits in Plaintiff's Exhibit M for identification, is that correct?

THE REPORTER: That is correct.

MR. YOUNG: Also further identifying the contents of Exhibit N for identification, we find there are ballots which are orange in color and which have an available space on only one side for the election of candidates for International office. These ballots were found generally in groups which have been stapled together or clipped together with paper clips, for certain of them; is that correct, Mr. Reporter?

THE REPORTER: That is correct.

MR. YOUNG: And in most instances the groups that are stapled together also have on the front page of each group a handwritten notation describing or stating the Local number-- for example, the first batch stapled together has nine ballots and the first ballot has written on it "Local-1"; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: We have recorded the number of

ballots on the piece of paper corresponding to this identification as we found them for these orange ballots, corresponding to the local number on the front page of each batch: is that correct?

THE REPORTER: That is correct.

MR. YOUNG: May we have this marked as Plaintiff's Exhibit N-2 for identification -- this document records these orange ballots.

(Document marked Plaintiff's Exhibit N-2 for identification.)

xx

MR. YOUNG: I would like to note that there appears to have been two groups of these orange ballots which had no identification number by local port -- one group consisting of 21 ballots and the other of 19 ballots.

Have I identified these orange ballots correctly, Mr. Reporter?

THE REPORTER: Yes.

MR. YOUNG: And the exhibit now marked as Exhibit N-2 for identification has been initialed by the two representatives of the government who independently counted these ballots; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: I just wish to note for the record

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that Plaintiff's Exhibit N-2 for identification is a two-page document, and in addition to the locals that we have identified previously, page 2 records three separate bundle records of locals AMW numbers.

There appear to be a few miscellaneous document that were found in Exhibit N for identification which I would like to have marked seriatim as Plaintiff's Exhibits N-3 through N-11 for identification.

These are miscellaneous documents. I would like to note that Exhibit N-7, which consisted of three pages; that Exhibit N-8 and N-9 were found stapled together, as were N-10 and N-11; is that correct?

THE REPORTER: That is correct.

MR. YOUNG: Further, we found four unused official ballots, gray in color which together can be marked as Plaintiff's Exhibit N-12.

(Four unused official ballots, gray in color, marked Plaintiff's Exhibit N-12 for identification.)

xx

MR. YOUNG: And will you please mark one unused orange envelope, outside return envelope as Exhibit N-13 for identification.

(One unused orange envelope marked N-13 for identification.)

xx

MR. YOUNG: And will you please mark one unused white outside sending envelope as Plaintiff's Exhibit N-14 for identification.

(One unused white outside sending envelope marked Plaintiff's Exhibit N-14 for identification.)

xx

MR. YOUNG: Mr. Reporter, there are no other documents at all in Plaintiff's Exhibit N, is that right?

THE REPORTER: That is correct.

MR. YOUNG: And all the documents in Plaintiff's Exhibit M were identified as well, is that correct

THE REPORTER: That is correct.

MR. YOUNG: You have witnessed this identification process throughout, since we started, have you not

THE REPORTER: That is correct.

MR. YOUNG: We have accurately identified all the documents?

THE REPORTER: That is correct.

MR. YOUNG: I would like to note for the record that I appreciate the court reporter's patience, indulgence and assistance and we extend our thanks.

THE REPORTER: You are welcome.

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STATE OF NEW YORK

COUNTY OF NEW YORK

I, Morris I. Kligman, a Certified Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That the deposition hereinbefore set forth was duly reported by me, and that such deposition is a true record of the proceedings.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of November, 1974

Morris I. Kligman, CSR

EXHIBIT INDEX

Plaintiff		Page
M-1 (id)	18 batches of gray ballots.	40
M-2 (id)	Master list, numbering 774.	40
M-3 (id)	33 gray ballot envelopes, unused.	40
M-4 (id)	Six batches of orange colored ballots, unused.	40
M-5 (id)	Two batches of orange colored envelopes.	41
M-6 (id)	Three batches of blue ballots, unused.	41
M-7 (id)	One batch of blue envelopes.	41
M-8 (id)	73 green unused envelopes.	41
M-9 (id)	Batch of 70 green unused ballots.	42
M-10 (id)	One secret white ballot envelope.	42
M-11 (id)	Batch of 22 blue ballots.	42
M-12 (id)	Five white undeliverable sealed envelopes.	42
M-13 (id)	Two unused outer white envelopes.	43
M-14 (id)	One page letter dated November 16,1971.	43
M-15 (id)	Three gray envelopes.	43
N-1 (id)	960 gray ballots.	44
N-2 (id)	Document.	46
N-3 through N-13 (id)	Miscellaneous documents, four unused official ballots, gray in color, one unused orange envelope.	47
N-14 (id)	One unused white outside sending envelope.	48

Transcript of Proceedings dated October 11, 1974

U.S. DISTRICT C.
FILED
JUN 9 - 1975
S. D. OF N.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

JAMES D. HODGSON, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR,

Plaintiff,

-against-

72 Civ 5031 (CBM)

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS INTERNATIONAL MARITIME DIVISION, ILA, AFL-CIO,

Defendant.

October 11, 1974
10:00 a.m.

Meeting taken by the plaintiff, at the United States Attorney's Office, United States Courthouse, Southern District of New York, Foley Square, New York, New York, before Russell M. Graves, a Certified Shorthand Reporter and Commissioner of Deeds of the City of New York.

- - -

APPEARANCES:

PAUL J. CURRAN, Esq.,
United States Attorney for the
Southern District of New York,
United States Courthouse,
Foley Square, New York, N.Y.,
By: Bobby C. Lawyer, Esq.
Dennison Young, Jr., Esq.,
Assistant United States Attorneys

Also Present:

Jacqueline Dagg,
Brian O'Hanlon, Compliance Officer,
United States Department of Labor,
Management Services & Administration

- - -

MR. YOUNG: This is the 11th of October. We were to resume identification of documents submitted by the AAA pursuant to the plaintiff's subpoena issued upon them.

Let the record show that the court reporter was here at 10 o'clock, that accompanying me at that time was Mrs. Jacqueline Dagg.

No one else is present. No one has appeared for the defendant. There is no representative of the American Arbitration Association present.

The time is now 10:32.

(Recess taken.)

MR. YOUNG: It is now 11:10. I have just gotten off the phone with Rosemary Page, who has explained to me that the AAA won't be able to produce any persons designated to testify with respect to the documents submitted yesterday, that she would try to contact Mr. Lester Wolff, the head of the AAA Election Department right away to discuss the matter.

She represents to me that somebody will be here at 2:30 Tuesday, October 15th, and appropriately designated to continue with the identification of these documents. And that in any event, she will try to reach me at 3 o'clock this afternoon by phone to inform me as to what has been arranged internally at the AAA.

I have explained to her that we would like to go forward today. However, we would accommodate the AAA to that extent, namely, that we would want somebody here at 2:30, October 15th, to continue with the identification of the documents, until such identification was concluded, which may run for additional days.

I have also insisted that we have today a letter from Mrs. Page or any other appropriate official

at the AAA confirming that someone would be here Tuesday at 2:30.

In lieu of receiving said letter I explained we were prepared to seek assistance from the court. I have indicated also that I will ask the court reporter to return at o'clock to record orally any further events or conversations that may transpire.

Mrs. Page has remarked that it was her impression that Miss Leptak would only be required for the identification of documents for a few hours yesterday. I explained to her that Miss Leptak had called officials at the AAA and also spoke even to Mr. Lester Wolff long distance, and that the continuation of the deposition was discussed at those times.

Mrs. Page also commented that she didn't understand Miss Leptak was to testify with respect to anything that transpired during the course of the AAA's involvement of the 1971 union election.

I responded that that was so, that we didn't intend to take information from Miss Leptak at this time that would bind the AAA. But she explained on the record that she had no involvement with this particular election, and I indicated to Mrs. Page that all we wanted from Miss Leptak was for her to

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appropriately identify the documents that were submitted.

At this time I would like to note that present in the room are Mr. Brian O'Hanlon (who just walked in), Mrs. Jacqueline Dagg, the court reporter and myself.

No one else has appeared either for the AAA or the defendant.

May I ask the court reporter please to return here at 3 o'clock.

(Recess taken.)

MR. YOUNG: It is now 3:15.

Prior to my previous conversation with Mrs. Rosemary Page, attorney with the AAA, as we had indicated on the record, I will call her now.

(Telephone call made.)

MR. YOUNG: Just finished a conversation with Rosemary Page who informed me that Mr. Lester Wolff, the head of the Election Department of the AAA, together with herself, that is, Rosemary Page, will be here at 2:30, October 15th, to continue with the identification of the documents that had initially been started by Miss Leptak yesterday, October 10th.

This deposition will stay in a state of continued adjournment until such time as we complete identification of any and all documents that we may have subpoenaed.

I wish to note that it is now 3:25. Those present in the room include Mr. Brian O'Hanlon, Mrs. Jacqueline Dagg, a student assistant, Paul Milhed, who is working with me, the court reporter and myself. No one is here for the defendants nor for the AAA.

We shall adjourn.

Mr. Court Reporter, perhaps you will confirm the fact that no one appeared at all yesterday for the

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defendants. Is that correct?

THE COURT REPORTER: Yes.

MR. YOUNG: Let us adjourn.

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Transcript of Proceedings dates October 15, 1974, and October 16, 1974

-2244-

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES D. HODGSON, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR,

Plaintiff

vs.

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS INTERNATIONAL MARITIME DIVISION, ILA, AFL-CIO,

Defendant.

72 CIVIL 5031 (CBM)

U.S. DISTRICT COURT
FILED
JUN 9 - 1975
S.D. OF N.Y.

New York, October 15,16, 1974

STENOGRAPHER'S MINUTES

VOL #8

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

JAMES D. HODGSON, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR,

Plaintiff,

-against-

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS INTERNATIONAL MARITIME DIVISION, ILA, AFL-CIO,

Defendant.

72 Civ 5031(CBM)

October 15, 1974
2:30 p.m.

Deposition of American Arbitration Association, by LESTER WOLFF and PATRICIA LEPTAK, taken by Plaintiff, at the United States Attorney's Office, 40 Centre Street, New York, New York, before Russell M. Graves, a Certified Shorthand Reporter and Commissioner of Deeds of the City of New York.

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APPEARANCES:

PAUL J. CURRAN, Esq.,
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40 Centre Street,
New York, N.Y.,

By: BOBBY C. LAWYER, Esq.,
DENNISON YOUNG, JR., Esq.,
Assistant United States Attorneys

Also Present:

ROSEMARY PAGE, Esq.
Attorney, American Arbitration Association,
Brian O'Hanlon, Esq.,
Compliance Office,
United States Department of Labor,
Management Services & Administration

JACQUELINE DAGG

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MR. YOUNG: This is the resumption of the deposition that was adjourned October 10th, by stipulation between myself and counsel for the American Arbitration Association, until today at 2:30. It is now 2:45

I note those present in the room include Mr. Brian O'Hanlon, Mrs. Jacqueline Dagg, myself, on behalf of the government, and Miss Patricia Leptak, who w here Thursday, Mr. Lester Wolff, and Miss Rosemary Page, counsel for the AAA.

Mr. Wolff, you will be doing some testifying today, is that right?

MR.WOLFF: Yes. May I --

MR. YOUNG: With respect to the subpoena that we had issued and served on you.

MR. WOLFF: I haven't read it.

MISS PAGE: Could I make one preliminary statement. And that is, Miss Leptak is here today to provide any continuity that should be necessary in view of the fact that there will be a continuation of what I understand is a count, or a descriptive acceptance of records in a second box in connection with the subject election that is here now. And that Miss Leptak must leave at 4 o'clock because of a prior

appointment. But that Mr. Wolff and myself will be here thereafter and continuing.

MR. YOUNG: Thank you. That is very helpful.

With respect to what is in the second box, I don't think it fits necessarily a count or what not.

When we adjourned last Thursday we resealed a box, one of the four boxes that had been supplied and which we had opened to insure that we would get an accurate record today. It doesn't appear to be any ballots or other documents subject to necessitating a count.

But there are things to identify therein. One of the boxes that was opened was fully identified. The contents therein respectfully identified and that remained open. The remaining two boxes were never opened. They are still under seal. I don't know what is in them.

I assume, if there is anything to count, we will go through the laborious process of counting them and checking each other's count. I would just like to ask Mr. Wolff a couple of background questions if I may.

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MR. YOUNG: Mr. Wolff, can you tell us your job?

MR. WOLFF: Election Director and vice-president of the American Arbitration Association.

MR. YOUNG: How long have you been with the AAA?

MR. WOLFF: 6-1/2 years, approximately.

MR. YOUNG: Miss Leptac works with and for you?

MR. WOLFF: Yes, that is right.

MR. YOUNG: You were there during the period of the 1971 election of officers which is the subject of this suit.

MR. WOLFF: Spent most of that period in Chicago.

MR. YOUNG: But you were with the AAA at least at that time?

MR.WOLFF: Yes.

MR. YOUNG: As I explained to Miss Page, the purpose of this deposition was not to interrogate any witness with respect to what actually transpired at that time. It was merely to inquire with respect to the documents we asked to be turned over. To the extent we are interested in further discovery,

we will notice you, and if we believe somebody is presently with the AAA who could shed some light on this investigation, well, then, we will take that up at that time.

Am I correct in assuming that, or in restating our conversation as of last week, that you explained that there were two people, Mrs. Carlson and Mr. Tannembaum, who had done most of the work in connection with this election, and they are no longer with the AAA?

MR. WOLFF: One, Mr. Tannembaum had done all the work with advice, consultation and direction from Mrs. Carlson, so that is still you know, a secondary source for you. Mr. Tannembaum is a primary source. And myself and Pat are four steps removed.

MR. YOUNG: Those two people are longer with the AAA?

MR. WOLFF: That is right.

MR. YOUNG: Okay.

MISS PAGE: I would like to make one observation that I learned from Mr. Wolff earlier, and that is that the contents in these books had apparentl previously been looked at, I believe, by possibly Mr. O'Hanlon or someone else who had come to the

Association's office, and that it is believed that there may have been some photostats made and possibly some other lists, so that would be a second back-up source for the material that is contained in these boxes. It may help to shortcut some of the identificatic process now.

MR. YOUNG: The lists of what the documents were, you mean?

MISS PAGE: That is correct. It is my further understanding that these particular boxes were sealed and kept for a period longer than they normally would be in an election because this election, I understand, was held in 1971, at the request of the Department of Labor, if I am correct in --

MR. YOUNG: I don't know if you are or not. My impression is that once this subpoena was served on you, according to Miss Leptak the last time, she had to accumulate what documents she could find and put them personally into these boxes, with the exception of one thinner box which had some documents in it already. And that to the best of her knowledge, as of the moment she brought them here, these were all the comments subject to the subpoena.

MR. WOLFF: That is right. All we are

saying is that they were previously investigated.

MR. YOUNG: I understand. During the course of the Labor Department's investigation, prior to our instituting suit, they did view some, if not all the documents at that time. I haven't seen any lengthy detailed list to help expedite this.

Believe me, I would welcome the availability of such lists. I have just handed Mr. Wolff the original subpoena.

(Discussion off the record.)

MR. YOUNG: Miss Leptak, you are here and still under oath for what it is worth. Why don't we proceed just to open this box and get on with identifying this thing. Is that how it was sealed when you left?

MISS LEPTAK: Yes.

MR. YOUNG: We had identified a number of the folders here in as various exhibits. The contents of these folders are included as part of the exhibit, which is marked on the outside of the folder. This box, the whole box was identified as Government's Exhibit D. We had gotten as far as identifying four different items now identified as Government's Exhibit D-1, D-2, D-3 and D-4.

Let me lay those aside and take out the next one.

I have taken a folder from Government's Exhibit D.

On the outside are two gum labels identifying this folder as IOMMP, 135003871, Candidates-Campaign Correspondence, Costs and Requests for Mailing, San Fran. $51.50 to, Mailings, Captain Tult, 2024 Labels, $51.50 check, 1/12/72.

Second gummed label thereon starts, Richard T. Barra, and ends, George Tult, two Mailings.

Off the record for a second.

(Discussion off the record.)

MR. YOUNG: Proceeding to identify the documents within this folder I note there is a yellow sheet with a pink message on it stapled to the front page, to Mrs. Carlson, dated 1/14/72, noting that:

"While you were out," and then there is a name, Frank Cane, it notes, the words, Called-collect, and then the telephone number. The first document is in three separate parts and was paper clipped together.

The first part is a letter from Cornelius Coyle, dated December 19, 1971, to Mrs. Margaret Carlson, noting that Lloyd Sheldon will act as his representa-

tive.

The second segment is a yellow piece of paper with shorthand markings on it. It appears to have the word, Burbie on the top of the third segment of this one document is a letter from Frank Burke, dated December 1, '73 to Mrs. M. Carlson, beginning:

"Dear Mrs. Carlson: As a member of and candidate for office in the International Organization of Masters, Mates and Pilots," and so forth. I am going to staple these three documents together.

MISS PAGE: Off the record.

(Discussion off the record.)

MR. YOUNG: Mr. Wolff, before we proceed to further identify these documents I noted that last time I marked as Government's Exhibit B we had a designation pursuant to Rule 30b-6 of the Federal Rules of Civil Procedure indicating that Miss Leptak was the appropriate person to testify with respect to the authenticity of the documents supplied, pursuant to the subpoena. Are you also one whom the AAA appropriately designates for such purposes?

MR.WOLFF: Yes.

MR. YOUNG: These are the only documents that you have in your possession in response to our

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subpoena?

MR. WOLFF: Yes, to my understanding, they are.

MR. YOUNG: I had asked Miss Leptak to check further last time when we adjourned.

Miss Leptak, did you find any additional documents?

MISS LEPTAK: No, I didn't. I did check with the Legal Department and no other place.

MR. YOUNG: May I ask you both, at the conclusion of the day and when we finally identify all these documents, to check once again in all locations under the control of the AAA?

MR. WOLFF: Good. Sure.

MR. YOUNG: Thank you. And if we can have additional ones that we may have some knowledge of or somebody has indicated may have at one time at least been in the possession of the AAA, we will let you know and ask you specifically to search those out, okay?

MISS LEPTAK: Okay.

(Recess.)

MR. YOUNG: It is now 443. We have been identifying documents contained in Government's

Exhibit D by assertion of alphabetical and numerical sequential listings, and Mr. Wolff and Brian O'Hanlon have been initialling them appropriately. I will proceed to identify a number of these folders and the contents therein shortly, but I would like to note that we will be adjourning shortly and Mr. Wolff, you understand that this is an adjournment just for the night. We will resume tomorrow morning at 9:30. You and/or Miss Leptak will be here?

MR. WOLFF: Yes.

MR. YOUNG: It is up to you and Mrs. Page, at your pleasure. We may not finish marking and identifying on the record all the documents in this particular carton, D, in which case Mr. Wolff, and/or Brian O'Hanlon will reseal this box and open it tomorrow morning.

Let me at least identify a number of the items.

First explaining the system we have devised: Each carton has been identified by a capital letter. We have completely identified one carton, that is Carton C. We are now working on Carton D, identified as Government's Exhibit D. Within that carton there are a number of folders. Each folder has a

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number. At the last session we identified four folders as Exhibits D-1, D-2, D-3 and D-4, and orally described the contents therein, that is, in each folder. We now will continue with the numbering of each folder. However, we have proceeded to identify the contents within each folder by lettering and numbering each document sequentially, unless otherwise described on the record.

Next to each appropriate symbol on each document there will be the initials of Mr. Wolff, whose three initials are --

MR. WOLFFF: LBW.

MR. YOUNG: And either my initials, DY, or Mr. O'Hanlon's, BPO.

I will for the moment, skip Government's Exhibit, the folders that we have premarked as Government's Exhibit D-5 and 6 and 7.

The next folder I wish to identify is one we have premarked as D-8, and ask that the court reporter appropriately mark it as the government's exhibit.

xx (Government's Exhibit D-8 was marked for identification.)

MR. YOUNG: Herein appear various items

which have been designated as D-8(a), through D-8(cccc).

Our sequence runs and will henceforth run as follows:

After the number in parentheses, the first series will run from (a) through (z).

The next series will be (aa) through (zz).

The next series will be (aaa) through (zzz), et cetera, et cetera. Mr. Wolff, I have just recited into the record the contents of Government's Exhibit D-8 that is running from D-8(a) through D-8(cccc).

You have both initialed each document. Is that an accurate recitation of the contents?

MR. WOLFF: Yes, it is.

(Discussion off the record.)

MR. YOUNG: Okay.

Moving on to D-10 for the moment, skipping D-9, I ask the Court Reporter to properly identify this as Government's Exhibit D-10.

xx (Government's Exhibit D-10 was marked for identification.)

MR. YOUNG: The contents of Government's Exhibit D-10 may be identified as follows:

The symbols running on the different items

run from D-10(a) through D-10(xx). Each has been initialled by me and Mr. Wolff. Is that an appropriate identification of all the contents of this exhibit, Mr. Wolff?

MR. WOLFF: Yes, it is.

MR. YOUNG: Skipping D-11 and moving to D-12, may I ask that this folder be appropriately marked as Government's Exhibit D-12.

xx (Folder marked as Government's Exhibit D-12 for identification.)

MR. YOUNG: The contents of this folder appear to be three stenographic transcripts -- I am sorry -- three, period. The first one has on it the caption, "American Arbitration Association," and then in the matter of the election of officers of the International Organization of Masters, Mates and Pilots, case No. 1350-0038-71. It is dated August 27, 19[illegible] 10:30, with the address of the AAA before Eric Schmertz, Esquire, Arbitrator. It is noted at the bottom that the company taking and transcribing these, making what appears to be the transcript of an arbitration proceeding is the Professional Reporting Services, 132 Nassau Street, New York, New York, 10038, and the telephone number. This first document runs through

page 41-(a) and is signed by Herbert Prokop.

Do you agree with that description?

MR. WOLFF: Yes, I do.

MR. YOUNG: The second transcript has the same caption on the front page. It is taken by the same Professional Reporting Services before the same arbitrator. It is dated August 30, 1971, 4:45 p.m. This document runs from page 1 through 28, and is signed by what appears to be Deborah Sperling. There is just a handwritten signature. The last page begins on line 2, small, administration of this election "should,in the absence of the consent of the parties," and so forth.

The third document, in a black binder, is also a transcript prepared by the Professional Reporting Services, the front page has the same caption on the front, except that -- there is a date, August 30, 1971, 2:00 p.m., and it has the name, "Robert H. Nelson, Chairman," on the outside. The second page has appearances of Marvin Swartz, Esquire, Gordon Hall, Esquire and notes those present, two individuals for the AAA, Mrs. Margaret Carlson, Mr. Sam Tannembaum and a series of names beginning with Ames Koonts and ending with Frank Scaabl. This

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document runs from Page 1 through 91. Page 91 is an index of exhibits. Page 90 has the last typewritten transcription on it. It is unsigned.

Do you agree with that --

MR.WOLFF: Yes, I do.

MR. YOUNG: -- description?

MR. WOLFF: Yes.

MR. YOUNG: That is all the documents in Government's Exhibit D-12.

The next is a folder to be identified as Government's Exhibit D-13. Would you so identify this document.

xx (Government's Exhibit 13 was marked for identification.)

MR. YOUNG: Government's Exhibit 13, I note on the outside has the words "Certifications" on the front and the raised portion of the folder has the numbers, 1350003872. It appears to be in three parts. There are two separate pages and one part, the third part being a number of pages stapled together. However, they have all been marked as follows: "D-13(a) through D-13(n). Each page has the initials of Mr. Rolff and myself to the symbol. Do you agree with this identification of these documents?

MR. WOLFF: Yes, I do.

MR. YOUNG: The next folder is to be identified as Government's Exhibit D-14. Please mark this appropriately.

xx

(Folder marked Government's Exhibit D-14 for identification.)

MR. YOUNG: Off the record.

(Discussion off the record.)

MR. YOUNG: The contents within Government's Exhibit D-14 may be described as follows: The alphabetical series runs from D-14(a) through D-14(111). Each document has been initialed by Mr. Wolff and Mr. O'Hanlon.

Is that correct, Mr. Wolff?

MR. WOLFF: Yes, it is.

MR. YOUNG: Mr. Wolff, I will continue to appropriately identify and initial the remaining documents in Government's Exhibit D, and then identify them on the record tomorrow morning. At this time the Court Reporter maybe excused, but we all agree that we will be back tomorrow morning at 9:30.

MR. WOLFF: Yes.

MR. YOUNG: Okay.

After we are done identifying

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we will seal the box appropriately to your satisfaction, Mr. Wolff.

MR. WOLFF: Okay.

MR. YOUNG: Thank you very much. Until tomorrow at 9:30.

(Time noted: 5:05 p.m.)

(Adjourned to October 16, 1974, at 9:30 o'clock a.m.)

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- x

JAMES D. HODGSON, Secretary of Labor, UNITED STATES DEPARTMENT OF LABOR,

Plaintiff

v. : 72 Civ. 5031

INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS INTERNATIONAL MARITIME DIVISION, ILA, AFL-CIO,

Defendant.

- x

October 16, 1974
10:30 a.m.

Continued deposition of

American Arbitration Association by LESTER WOLFF taken by plaintiff, pursuant to adjourment at the United States Attorney's Office, Foley Square, New York, New York, before Russell M. Graves, Certified Shorthand Reporter and Commissioner of Deeds of the City of New York.

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BOBBY C. LAWYER, Esq.,
DENNISON YOUNG, JR., Esq.,
Assistant United States Attorneys

ALSO PRESENT:

BRIAN O'HANLON,
Compliance Office,
United States Department of Labor,
Management Services and Administration

JACQUELINE DAGG.

...

MR. YOUNG: We will now resume the deposition with respect to the subpoena issued on the AAA.

I note that it is 10:30 am. We were to resume at 9:30 but apparently Miss Leptak and Mr. Wolff were detained by weather conditions, as I was to some extent.

rgra:mg 3

Last night we left off identifying a number of items, that is, the contents of Government Exhibit D.

Mr. Wolff and I proceeded to mark each document within those folders which had not previously been identified with the symbols that we had conjured up.

Thereafter we placed all of the contents back in Government's Exhibit D and sealed it.

Mr. Wolff, I would like to open this box again.

Does it appear to be in the condition we left it last night?

MR. WOLFF: Yes, it does.

MR. YOUNG: We had identified a number of folders and their contents prior to adjourning last night. The ones we had identified, that is, the folders we had identified, are denoted as Government's Exhibits D-1, 2-3,4,8,10,12, 13, and 14.

Let us now proceed with the folder which we have marked as D-5.

We ask that the court reporter please mark this as Government's Exhibit D-5.

rqr:mq 4

xx (Government's Exhibit D-5 marked for identification.)

MR. YOUNG: To proceed to identify the contents of Government's Exhibit D-5, the items contained herein run according to our sequential alphabetical and numerical designations from D-5(a) through D-5 (iii).

Each document is also initialled by both myself and Mr. Wolff.

Have I identified this folder and the contents herein properly, Mr. Wolff?

MR. WOLFF: Yes, you have.

BY MR. YOUNG:

The next folder Mr. Wolff and I have denoted as D-6.

May we have this folder marked as Government's Exhibit D-6.

xx (Government's Exhibit D-6 marked for identification.)

BY MR. YOUNG:

The contents in Government's Exhibit D-6 may be identified as running from D-6 (a) through what appears to be D-6 (uu).

I note that a number of the documents

rgra:mg 5

are multi-page documents, and where possible, they have been identified with sub-numbers below the small letters.

Each document has not only been identified with these numerical and alphabetical sequential symbols, but they have been initialled by myself or by Mr. O'Hanlon, his initials being BPO.

Have I identified the contents in this folder properly?

MR.WOLFF: Yes,you have.

MR.YOUNG: The next folder should be identified as D-7, and will you, Mr. Reporter, please mark this as Government's Exhibit D-7.

xx (Government's Exhibit D-7 marked for identification.)

MR. YOUNG: Identifying the contents herein, I first wish to note that there appears on the inside of the folder stapled at the top a short piece of yellow paper with the number 135-03871; the date, August 18, 1971, R. E. International Association of Masters, Mates and Pilots, New York, New York.

We have proceeded to identify the documents herein running from D-7(a) through D-7 (zzzzz).

rgra:mg 6 25

We have continued thereafter with a slight variation of our symbolic designations, identifying the documents continuing thereafter as D-7 (1-D-7) 139.

Wherever appropriate we have marked multi-page documents with sub categories, either into numerical or alphabetical. I seem to recall numerical. That is correct, Mr. Wolff?

MR. WOLFF: I believe so, yes.

MR. YOUNG: There are a number of documents however, which are multi-page documents, each page of which is not marked.

Very quickly, those that I have been able to identify include D-7(c)(1). That is a three-page letter.

D-7 (g) is a three-page document.

D-7 (w) is a two-page letter.

D-7 (ff) is a two-page item.

D-7 (ww) is a two-page document.

D-7 (jjjjj) is a 12-page certification, a 12-page document.

I note it is a certification.

I note that D-7 (nnnnn) is a two-page certification of results.

Thereafter, we have noted D-7 (nnnnn-x(1) is a two-page document, and there is a one-page document,also a certification of results.

Denoted as D-7 (nnnnn-y).

D-7 (11) is a 12-page document, actually it appears to be four separate items of three pages.

Have I identified all the contents of Government's Exhibit D-7 properly?

MR. WOLFF: Yes, you have. -

There may be one or two other multi-page documents not listed in your itemization but I believe your designation is appropriate.

MR.YOUNG: I will just further note that both you and I have initialled all the documents herein, is that correct?

MR. WOLFF: That is correct, yes.

MR. YOUNG: The next folder is identified as D-9.

I would like to have this marked as Government's Exhibit D-9.

xx (Government's Exhibit D-9 marked for identification.

MR. YOUNG: Describing the contents in D-9, I note that the exhibits run sequentially

rgra:mg 8

from D-9(a) through D-9(pp)

I am sorry. Strike that.

D-9 (ss)

They all have been initialled by both Mr. Wolff and myself.

Have I identified the contents in D-9 appropriately, Mr. Wolff?

MR. WOLFF: Yes, you have.

MR. YOUNG: The next folder is denoted as D-11.

Please mark this as Government's Exhibit D-11.

xx

(Government's Exhibit D-11 marked for identification.)

MR. YOUNG: The contents of this folder appear to run from D-11(a) through D-11 (sssssss.)

A number of these documents are multi-page documents.

Mr. Wolff and I have initialled each document, and with respect to the multi-page document we have at least initialled the front page.

At this time we are able to identify as multi-page documents the subsequent pages

rgra:mg 9

of which are not initialled, and are as follows:

D-11(a) is apparently an eleven-page document.

D-11 (iii) is a three-page document.

D-11 (jjj) sequentially through D-11 (kkkk) are all three-page documents.

D-11 (ccccc) is a 23-page document.

D-11 (hhhhh) 12-page document.

D-11 (ooooo) 35-page document.

D-11 (qqqqq) 23-page document.

D-11 (wwwww) three-page document.

D-11 (zzzzz) is a three-page document.

D-11 (aaaaaa) is a two-page document.

D-11 (dddddd) is a two-page document.

D-11 (eeeeee) is a 14-page document.

D-11 (qqqqqq) is a forty-page document)

D-11 (rrrrrrr) is a 7-page document.

Have I identified all the documents contained in Government's Exhibit D-11 appropriately, Mr. Wolff?

MR. WOLFF: Yes, you have.

MR. YOUNG: It appears that we have identified all the contents of Government's Exhibit D; that is, Carton D, except I seem to recall a little

rgra:mg 10

plastic compass device which may not be incorporated in one of the folders, does not seem to be in the box at the moment, which did not appear to be too significant. I don't know what itwas.

Do you recall what it was?

MR. WOLFF: No. I am not sure. I recall the device, though, and I think it is in one of the folders in an envelope. It may be in another one that is loose.

MR.YOUNG: Okay. But it was a loose, excess item, is that correct?

MR. WOLFF: Yes, that is correct.

MR. YOUNG: Okay.

All right. At this point I think it appropriate to open a third carton to estimate how long it will take to identify the documents, the items contained therein.

Off the record.

(Discussion off the record.)

MR.YOUNG: May we have this third carton identified as Government Exhibit E.

xx

(Government's Exhibit E marked for identification.)

MR.YOUNG: Miss Leptak, you sealed this

rgra",q 11

in the way we find it now, is that correct?

MISS LEPTAK: Yes.

MR.YOUNG: Okay.

Let's open it up, Mr. Wolff.

The box that we have opened appears to contain ballots similar to those we described when we opened Government's Exhibit C.

It also contains in a disorganized fashion various opened envelopes addressed to the AAA in care of the safe deposit vault at the American Bank and Trust Company.

It has envelopes which say "Secret Ballots" on the outside, and it contains a smaller box having various envelopes, ballots and similar items.

I note on the outside of the box it appears to read, the word "Received,(Pa) abbreviated, (Rec'd) by Bank after ballots were pickedup in D.E.C-4, Pa., appears to be Counting.

It also has I.O.M.M. and P. I can't read certain-- it says "115 ballots picked up in bank vault on day of run-off count."

What I propose at this time is to ask for a slight adjournment while we can systematically identify the contents herein and I will ask the

rqra:mg 12

reporter to return at noon so that we may try to identify the contents on the record.

Before adjourning, I would just like to note for the record, Miss Leptak had,at our request, taken with her last Thursday a few documents that appear to have fallen out of one of the boxes prior to any of them being opened.

She now returns these documents to us which we will, if it is all right with, Miss Leptak, identify as being part of the contents of this particular Exhibit E, Government's Exhibit E; that is, we will include them in this box.

MISS LEPTAK: Okay.

(Recess taken at 11:05 a.m.)

AFTERNOON SESSION

3:00 p.m.

MR. LAWYER: Mr.Reporter, the time is now three o'clock, October 16.

We had broken for lunch.

We have now made a record of the contents that are included in Exhibit E.

Now, present at this time are Mr. Wolff and Miss Leptak from the AAA, and my name is Bobby Lawyer. I am sitting in for Mr. Dennison Young of the U. S. Attorney's Office.

First of all, what we wish to reflect as having been contained in Exhibit E are a quantity of gray business size envelopes. Each of the envelopes are addressed to the American Arbitration Association, care of Safe Deposit Vault, American Bank and Trust Company, 3011 Fordham Road, Bronx, New York, 10458.

Each of the envelopes contains a separate, that is, individual number in the lower left-hand corner.

What has been done by way of making a record of each individual envelope is the following:

1. Separate legal size yellow pages

rqra:mg 14

dated October 16, 1974, and initialled by Brian O'Hanlon and by Mr.Lester Wolff, have been prepared.

Those eleven pages contain the numbers that I mentioned before from each and every one of the individual numbers.

I ask you to also, Mr. Reporter, place your initial on each and every one of these sheets and mark the sheets collectively as Exhibit E-1.

xx (Government's Exhibit E-1 marked for identification.)

MR. LAWYER: Page 1 of Exhibit E-1 contains 59 numbers.

Page 2 contains 58 numbers.

Page 3 contains 56 numbers.

Page 4 contains 57 numbers.

Page 5 contains 60 numbers.

Page 6 contains 60 numbers.

Page 7 contains 58 numbers.

Page 8 contains 56 numbers.

Page 9 contains 59 numbers.

Page 10 contains 60 numbers.

Page 11 contains 6 numbers.

Do you agree, Mr. Wolff, that you and I and Miss Leptak have checked each and every one of

rrgra:mg 15

these and Government's Exhibit E-1 accurately reflects what I have just stated.

MR. WOLFF: Yes, I do.

MR. LAWYER: One other thing, Mr. Reporter, on Exhibit E-1 there are several strike-outs. That is, where a line was drawn through a number and another number substituted, simply because there was a mistake in transposing.

Each time there has been a strike-out it has been initialled by Mr. O'Hanlon.

The next, Mr. Reporter, we have taken from the box that has been marked as Exhibit E-W, today's date, a grand total of 5721 white envelopes, each of which, in bold-face print, has the words, "Secret Ballot," thereon.

Let the record reflect that each envelope has been opened, that is, torn apart or cut apart, and they contain at this time nothing.

May the record also reflect that within that grand total of 5721 there appears to be, that is, from looking at the face of the envelopes, four different sizes and/or styles of print. At this time none of us here purport to know whether or not that has any significance or meaning whatever.

However, we reserve the right to determine that fact.

Do you agree, Mr. Wolff?

MR. WOLFF: Yes, I do.

MR. LAWYER: You agree, also, as to the quantity of white envelopes bearing the words "Secret Ballots" that were contained in Exhibit E?

MR. WOLFF: Inasmuch as it is ours, the American Arbitration Association's practice not to either save or count the secret ballot envelopes, we accept the total count.

MR. LAWYER: Of 5721?

MR. WOLFF: Yes. Without counting them.

MR. LAWYER: Off the record.

(Discussionoff the record.)

MR. LAWYER: Next, Mr. Reporter, also taken on today's date from Exhibit E were a quantity of offshore division ballots. They are all gray in color.

I will now give them to you by port and number; that is, by number referring to the quantity that we have counted here for each port.

For the Port of Baltimore, 7.

Port of New Orleans, 2.

rgra:mq o17

Port of Galveston, Houston and Port Arthur, combined total of 24.

Let the record reflect that the ballots themselves combined the names Galveston, Houston and Port Arthur,all on one ballot.

Ports of Baltimore, Philadelphia, Norfolk, Charleston and Savannah, all reflected on one ballot. There is a grand total of 30 separate ballots reflecting those ports.

The Port of New York, 175 ballots.

Ports of San Francisco, Seattle, Portland and Wilmington, grand total of 145.

Mr. Reporter, I will continue counting with respect to these ballots in just a second.

But first let me put a parenthetical remark in the record.

The ballots I have referred to thus far are bundled in separate packages, and they came out of Exhibit B in just that form.

As a result they were counted that way, that is, however many were in the bundle as they were in the box, that is,Exhibit E, are presently the same amount that we have counted.

In other words, we have not scrambled the

rgra:mg 18

bundles.

Now, the next bundle refers to the Port of Baltimore and the Port of New York, combined.

And this bundle has 41 for Baltimore and 1 for the Port of New York.

Next for the Port of Boston, there is a total of 43.

For the Ports of Mobile and Tampa, combined, a grand total of 6.

For the Port of Jacksonville, a total of 7.

For thePort of Providence, a total of 7.

For the Port of New Orleans, a total of 99.

However, Mr. Reporter, let the record reflect that included within that total of 99 is one ballot which has the name, New Orleans struck out and Jacksonville, Florida, inserted in its place.

Insofar as the way we have counted these ballots for New Orleans, we have included the words "New Orleans stricken out" as in fact being a New Orleans ballot.

And to further identify that, Mr. Reporter,

strike the beginning of my last sentence. In fact, there is no other way to further identify the ballots other than reading the names of the candidates for whom they voted. Which we won't bother to do.

Off the record.

(Discussion off the record.)

MR. LAWYER: Now,Mr. Wolff, and Miss Leptak, do you agree with the totals that I have just read into the record?

MR. WOLFF: Yes, I do.

MISS LEPTAK: Yes.

MR. LAWYER: And how did you come to conclude that my figures are correct?

MR.WOLFF: We physically counted with the Department of Labor the ballots separately bundled, as you read into the record.

MR. LAWYER: Okay.

You agree, Miss Leptak?

MISS LEPTAK: Yes.

MR. LAWYER: Mr. Reporter, also contained in Exhibit E were 11 gray sheets, the same size as the ballots themselves, and these purport to be ballot voting instructions.

Mr. Wolff, you agree with the number of

ballot voting instructions that we have counted?

MR. WOLFF: Yes, I do.

MR. LAWYER: And you, Miss Leptak?

MISS LEPTAK: Yes, I do.

MR. LAWYER: Now, with regard to the ballot voting instructions, as well as the ballots themselves, Mr. Reporter, let the record reflect that sheets of paper have been affixed to the top of the various stacks of ballots and the voting instructions, and those sheets of paper which reflect the number, that is, the quantity of ballots, are ballot voting instructions, and the initials of Miss Leptak and Mr. Wolff and Mr. O'Hanlon.

Also contained in Exhibit E is a, I guess what may be described as an electioneering card, Mr. Reporter, which says, "Vote write-in candidate for Assistnat Port Agent,Port of New Orleans," and the name of the candidate, Michael E. Pscenicka.

There is just one such card and it contains a photograph, apparently, of Mr. Pscenicka.

Do you agree, Mr. Wolff?

MR. WOLFF: Yes, I do.

MR. LAWYER: There is only one such card.

rgra:mg 21

Further contained in Exhibit E is similarly a small sheet of paper, approximately regular post-card size, which purports to be a change of address for a person by the name of Eimert. DeQuartel.

Off the record.

(Discussionoff the record.)

MR. LAWYER: Mr. Reporter, we also have four unopened envelopes which appear to contain some other mail matter, which were found in the Philadelphia batch of envelopes.

As I stated, they have not been opened. We have six such envelopes which were found in the Boston batch; that is, they are unopened and appear to contain material which had been mailed.

We have two such envelopes which were found in the San Francisco batch; that is, unopened and appear to contain matter.

Two envelopes which were found in the New York grouping, which are unopened, and they appear to contain mailed matter.

We have one envelope which was unopened which was in the Providence grouping.

We have five unopened envelopes contained in the "International" grouping, which are also

rgra:mg 22

unopened.

Now the description of the various envelopes that I have referred to as being unopened are, again, the envelopes which are addressed to the American Arbitration Association, care of Safe Deposit Vault, et cetera, which I have referred to earlier with respect to the box which has been marked as Exhibit E.

Mr. Reporter, may the record reflect that as with respect to each and every packet, the initials of Mr. O'Hanlon and Mr. Wolff, as well as your own, are contained on the sheets of paper that identify the envelopes.

Off the record.

(Discussionoff the record.)

MR. LAWYER: Mr. Reporter, further with respect to the box which was marked Exhibit E, we have removed eight orange envelopes and three green-colored envelopes, and both the orange and the green envelopes are in an unsealed condition.

And, again, the envelope contains the address that I mentioned at the outset with respect to Exhibit E, that is, American Arbitration Association, care of Safe Deposit Box Vault, et cetera.

rgra:mg 23

and Mr. Wolff and Mr. O'Hanlon have initialled a sheet of paper that has been used to identify these envelopes.

Thatis correct, Mr. Wolff?

MR. WOLFF: Yes, it is.

MR. LAWYER: And Mr. O'Hanlon?

MR. O'HANLON: Yes.

MR. LAWYER: Further with respect tothe box marked Exhibit E, we have a packet of gray-colored envelopes containing a quantity of 51 such envelopes.

They do contain the same address that I have been referring to, that is, American Arbitration Association,care of Safe Deposit Vault, et cetera.

They are all in an unsealed condition.

There is a yellow sheet of paper identifying this packet, which has been initialled by Mr. Wolff and Mr. O'Hanlon.

Is that correct, Mr. Wolff?

MR. WOLFF: That is correct, yes.

MR. LAWYER: Mr. Reporter, I believe I may have incorrectly said that the packet of 51 gray envelopes were "unsealed." Let the record.

reflect that I was mistaken, if I did say that.

In fact, those envelopes are sealed.

Off the record.

(Discussion off the record.)

MR. LAWYER: Further contained in Exhibit E, Mr. Reporter, are two open envelopes and two ballots which are stapled to the top thereof is a white sheet of paper which says "Baltimore, Arrived aftre 12-22.

That white sheet of paper that I just referred to was also contained in Exhibit E.

Mr. Wolff and Mr. O'Hanoon have put their initials on that white sheet of paper.

Is that correct, Mr. Wolff?

MR. WOLFF: Yes, correct.

MR. LAWYER: Further contained in Exhibit E are three voting instruction sheets which speak for themselves, and they contain no other identification other than the print.

Further contained in Exhibit E are five unsealed- rather, I should say, opened envelopes addressed to the American Arbitration Association, et cetera, that is the same address that we have referred to previously, as well as five ballots,

all of which purport to be from the Galveston, Houston, Port Arthur ports.

Further contained in Exhibit E are two ballots and two envelopes.

The ballots purport to come from the Port of Jacksonville and Hollywood, and the envelopes which are attached, that is, stapled to them, are cut open, and they are identified by a white sheet of paper which now has the initials of Miss Leptak and Jacqueline Dagg.

Further contained in Exhibit E are five cut-open envelopes and five ballots, all of which purport to be from the Port of New Orleans.

They are identified by a sheet of white paper, initialled by Miss Leptak and Miss Dagg.

Further contained in Exhibit E are 20 cut-open envelopes which purport to be from the West Coast. These are identified by a slip of yellow paper which has been initialled by Mr. Wolff and Miss Dagg.

Further contained in Exhibit E are three ballots and three envelopes whichpurport to be from the Port of Philadelphia.

They are identified by a slip of white paper

initialled by Miss Leptak and Miss Dagg.

Further contained in Exhibit E is one ballot and one envelope which is cut open and which purports to be from the Ports of Mobile and Tampa.

They are identified by a slip of yellow paper initialled by Miss Dagg and Miss Leptak, as well as by a sheet of white paper which just has the words "Mobile, Total, one," on it.

Further contained in Exhibit E are four ballots and four envelopes which purport to be fromthe Ports of Norfolk, Charleston and Savannah.

They are identified by a slip of white paper which says "Norfolk Ballots, arrived after 12-12," and by a slip of yellow paper which has been initialled by Miss Leptak and by Mrs. Dagg.

Further contained in Exhibit E are 11 ballots and 11 envelopes which purport to refer to the Port of New York.

They are identified by a slip of white paper which says,"New York, 11 ballots. Late." And by a slip of yellow paper, which has been initialled by Miss Leptak and by Mrs. Dagg.

Further contained in Exhibit E are 20 ballots purporting to be from the Ports of San

Francisco, Seattle, Portland and Wilmington.

And they are identified by a slip of white paper, bearing the initials of Mr. O'Hanlon and Mr. Wolff.

The white paper says, San Francisco late ballots.

Further contained in Exhibit E are six unsealed envelopes purporting to be at least insofar as the return addresses reflect, from Boston, or referring to the Boston port, I should say.

These are identified by a slip of yellow paper that has been added by Mr. O'Hanlon which says "Boston, not opened, dues problem."

Mr. O'Hanlon, those were found in the Boston batch, Boston group?

MR. O'HANLON: Well, all of these we have been discussing for the last 20 minutes are in the box that Mr.Young mentioned, indicates on the top, "Received by Bank after ballots were picked up in December.

MR. LAWYER: Okay.

From Exhibit E, further, there are four envelopes unsealed, referring to the Port of Philadelphia.

These are identified by a slip of yellow paper which says,"Found in Philadelphia batch, dues not checked."

(Discussion off the record.)

MR. LAWYER: Further contained in Exhibit E are two sealed envelopes purporting to refer to the San Francisco port.

These are identified by a slip of yellow paper which says, "No identifying data, F.H.Metcalf, dues problem," amongst other writing.

Further contained in Exhibit E are two sealed envelopes which purport to refer to the Port of New York.

They are identified by a slip of yellow paper which says, "Dues problem," including other writing.

Further contained in Exhibit E is one unopened envelope which purports to refer to the Port of Providence and it is identified by a slip of yellow paper which says, "W. Sullivan, dues problem," as well as other writing.

Further contained in Exhibit E are five unopened envelopes which purport to refer to the "I nternational."

These are identified by a slip of yellow paper which says "International" as well as other writing.

(Discussion off the record.)

MR. LAWYER: We have here, gentlemen, further found in Exhibit E, Mr. Reporter, are 52 white envelopes which contain the letting "Secret Ballot," which cosmetically are the same type of secret ballot envelopes that we have referred to earlier with respect to Exhibit E.

These are all in an unsealed state and they don't contain any contents.

Further contained in Exhibit E, Mr.Reporter, is one piece of literature which purports to be a John Birch Society propaganda sheet, leaflet or propaganda sheet.

Mr. Reporter, may the record reflect that ending with the John Birch Society leaflet and beginning with the envelopes which we earlier identified as being eight orange envelopes and three green envelopes, all of the exhibits inclusive, including the orange envelopes and the green envelopes, through the John Birch Society pamphlet, were contained in a box which is approximately the

size of two normal-size shoe boxes, and that second box was found, itself, within Exhibit E.

In short, that was a box within a box,and it contained all of the exhibit that I have just re - ferred to, beginning with the colored envelopes through the John Birch Society pamphlet.

xx (Government's Exhibit E-2 marked for identification.)

MR. LAWYER: Finally, Mr. Reporter, found within Exhibit E are three sheets of paper which have been marked by you as Exhibit E-2.

Two of these sheets are Xerox pages which contain the names of convention delegates, and one is a blue sheet which appears to be a portion of a ballot.

Mr. Wolff and Miss Leptak, you have been present while I have read off all of these things to teh reporter and one or both of your initials appear on the identified documents, is that correct?

MR. WOLFF: Yes.

MR.LAWYER: Mr. Reporter, that concludes our identification of the contents of Exhibit E.

Is that correct, Mr. Wolff?

MR. WOLFF: Yes, it does.

rgra:mg 31

MR. LAWYER: It appears that there remains only one more box to open and the contents of which remain to be identified.

Miss Leptak, referring to this box, which I would like the reporter to mark as Government Exhibit F - Miss Leptak, is this sealed the way inwhich you brought it in here?

MISS LEFTAK: Yes, it is.

MR. LAWYER: I would like this marked as Government Exhibit F.

xx (Government Exhibit F marked for identification.)

MR. LAWYER: Mr. Wolff, how about opening Box F.

(Government's Exhibit F opened by Mr. Lester Wolff.)

MR. LAWYER: Contained in box F are envelopes, mostly orange and green, and one brown and one gray.

Let's recess for a few minutes while we jointly mark these for identification.

(Recess.)

MR. LAWYER: Mr. Reporter, may these documents, that is, two sheets of yellow pad, page 1

and page, be marked as Exhibit F-1 with today's date, please.

xx (Government's Exhibit F-1 marked for identification.)

MR. LAWYER: May the record reflect that Exhibit F-1 contains a list of numbers, and that list of numbers adds up to 69 separate, that is, individual numbers, all of which refer to sealed envelopes that were removed from Exhibit F, that is, the box which has been marked as Exhibit F.

Those 69 envelopes each contain a separate number of the color orange.

Page 2 of Exhibit F-1 contains 75 separate individual numbers, each number refers to an envelope that has been removed from Exhibit F.

Each of these 75 envelopes are the color, of light green.

Now both sheets, that is, page 1 and page 2 of Exhibit F-1 have been initialled by Miss Leptak, Mr. Wolff and by you, Mr. Reporter.

Now, Mr. Wolff, do you agree that Exhibit F-1 reflects what was in fact contained in the box which was marked as F, that is, the numbers that are on the envelopes?

MR. WOLFF: Yes, I do, with the exception of two additional envelopes.

MR. LAWYER: Mr. Reporter, would you mark these two additional envelopes as F-2 and F3?

xx (Government's Exhibits F-2 and F-3 marked for identification.)

MR. LAWYER: F-2, Mr. Reporter, is a brown large envelope which is addressed to the American Arbitration Association, American Bank and Trust Company, 301 East Fordham Road, Bronx, New York.

The return address is Ralph - middle initial appears to be H, Sheffield, Route 2, Box 27al, Fairhope, Alabama, 36532.

As I stated, that envelope is opened.

Now, the contents of F-2 is a ballot which purports to be for the Ports of Mobile and Tampa, a secret ballot, white envelope, a gray envelope, which is addressed to the American Arbitration Association, care of Safe Deposit Vault, et cetera, and a cover letter dated October 5, 1971 from Ralph H. Sheffield.

Have you checked the contents of F-2, Mr. Wolff, and does it accurately reflect what I

stated on the record it does contain?

MR. WOLFF: You mentioned the letter?

MR. LAWYER: Yes, sir.

MR. WOLFF: Yes, it does.

MR. LAWYER: Now, F-3, Mr. Reporter, is similarly an opened envelope addressed to the American Arbitration Association, care of Safe Deposit Vault, et cetera.

The number onthe envelope is 2027 in the lower left-hand corner. And the return address pur - purts to bear the name, John R. Curtain, plus an address in New Orleans, Louisiana.

(Discussion off the record.)

MR. LAWYER: Mr. Reporter, that concludes our identification of the contents of the box which was marked as Exhibit F.

Do you agree, Mr. Wolff?

MR. WOLFF: Yes, I do.

MR. LAWYER: And Miss Leptak?

MISS LEPTAK: Yes.

(Discussion off the record.)

MR. LAWYER: All right. All that was produced in the four boxes now identified as Government's Exhibit C, D, E and F, I gather have

been appropriately identified on the record.

That is correct, Mr. Wolff?

MR. WOLFF: Yes, it is.

MR. LAWYER: And all these documents were produced pursuant to the subpoena served on the AAA, September 27, 1974, is that correct, Mr.Wolff?

MR. WOLFF: Yes, it is.

MR. LAWYER: What I would like to do is briefly run through with you, Mr. Wolff and Miss Leptak, the schedule that was annexed to the subpoena, and as we go through them, ask you to take any notes you may wish with respect to documents which you may subsequently discover at the offices or in the possession or control of the AAA, and ask that perhaps we arrange a subsequent next week for you to produce them or at least on the record explain that there are no other documents.

Is that all right?

MR. WOLFF: Sure.

MR. LAWYER: The first category of documents to be produced was namely all records, logs, diaries, memoranda, and so forth, in connection with the 1971 election of officers of the IOMMP.

You have been unable to find any diaries

or memoranda or logs associated with any individual who had any connection with the 1971 election?

MR. WOLFF: Not additional to those that have been presented.

MR. LAWYER: I don't recall seeing any that have been presented.

MR. WOLFF: In the file. I don't know which lines you are--

MR. LAWYER: Any logs or records kept by either Mrs. Carlson or Mr. Tannenbaum or yourself.

MR. WOLFF: Most of the exhibits which were identified as files contained those types of logs.

MR. LAWYER: May I ask you to just search for any diaries or logs or records of conversations or activities kept by any one or a combination of individuals associated with the AAA?

MR. WOLFF: We will do that. I do seem to recall that there were some documents that indicated payment received from the individuals in connection with the distribution of literature.

MR. LAWYER: You would know better than I if that is all of those documents.

Again that comes to mind as something I

would like to ask you to check.

Incidentally, even though I itemized certain things, it is really based on information that the Government has been able to recall or consider. It is by those means and exclusive request.

I ask you to look for any and all things associated with this particular election and turn them all over to us.

But these may be helpful in terms of jogging your memory.

The second category on this schedule of documents to produce dealt with correspondence to or from the AAA, its agents or employees in connection with the 1971 election of officers.

Specifically it listed a number of either organizations or entities or individuals, but it was not limited, and I am asking you to search any and all records you may have of correspondence to or from, not only these individuals but anybody or any entity that may in any way relate to the 1971 election of officers.

This not only includes the bank and the printing firm and candidates, but may be individuals who wanted to help candidates or support candidates,

whatever you have: please produce it.

All right?

MR. WOLFF: Yes. We will.

MR. LAWYER: Off the record.

(Discussion off the record.)

MR. YOUNG: May we include generally all records of disbursements, whether to or from individuals, to or from companies, to or from postal authorities, to or from banks, in any way, including checks or letters or other items that may note disbursements, and that may have any relationship to the 1971 election of officers.

Okay?

MR. WOLFF: Yes.

MR. YOUNG: Just so that the record is clear with respect to lists of individuals, we have gotten, I gather from you, eligibility lists and the list that candidates were able to inspect in some form or fashion.

If there were any other lists including ship lists and the like, may we ask you to provide them?

MR. WOLFF: Yes.

MR. YOUNG: No. 4 on this schedule dealt

with the mailing of campaign literature or requests for such mailing.

I did not notice correspondence or other documentary material that may have recorded either requests made by candidates or prior to or during the election for mailing out of literature, and so forth.

MISS LEPTAK: I think there was more than one file in there.

MR. YOUNG: I may not have noticed it because at one point we were identifying everything by number.

May I just ask you to check again with respect to No. 4 to see if there were any types of documents that may have recorded requests by candidates or their representatives or other individuals in connection with the mailing of campaign literature for any of the candidates; likewise if there was anything dealing with individual undelivered campaign material; in other words, material that may have been sent out and returned to the AAA, or material that was provided to the AAA but for some reason may never have been sent out as requested by the individual who provided the material.

Conceivably, somebody may not have paid you the required postage.

Speaking of postage, anything that you may have with respect to dealings with the Post Office, Postal officials, I would ask that you produce.

If any one from the AAA has any records of deliveries for mailing, deliveries of the Post Office for mailing, we would want all receipts or memos or other documents in connection therewith.

That includes the mailing of anything by the AAA, not just campaign literature. It might have been ballots, campaign literature, and anything else in connection with the 1971 election of officers.

It appears, and correct me if I am wrong, that all the ballots that were cast or not cast during the 1971 election for some reasons or other were not produced.

In identifying the ballots we have, that we found in these four cartons, we noticed that there were no ballots for the Local 88, Port of New York, which is the major port.

It has many members.

Perhaps you might investigate where those ballots and all other ballots may be.

You might find them all tied together in one box.

Do you agree?

MR. WOLFF: May I explain? The contents of the exhibits that we brought forth in this investigation were found with all of the material that had been investigated, and then packed away by the Labor Department.

We will now further search to see if there are any more ballots or any other materials, documents that we left out.

MR. LAWYER: That includes all documents in any way connected with this 1971 election.

MR. WOLFF: Yes.

MR. YOUNG: Just to continue on, that includes ballots and any documents; one thing, we noticed, there was an apparent shortage of envelopes. Certainly we recorded ballots numbering in the thousands within the boxes now identified as Government exhibits. The envelopes that are there are very few in number, and the envelopes we do have or that you have produced appear to relate

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to ballots that were not postmarked, less than a thousand.

The certification of results indicates the number of total ballots that were cast. Certainly we would want, if possible, if you can produce them, if you find them, to see all ballots and all envelopes associated with this election.

This would include unused ballots.

Okay, Mr. Wolff?.

MR. WOLFF: Yes.

MR. YOUNG: To the extent that they may exist, may we ask you to, and to the extent they may not have been turned over, may we ask for original documents of certifications of results and the minutes of meetings?

I believe some of these may have been turned over, but once again, things come to mind.

Mr. Lawyer was here part of the time. I s here the balance of the time, and at this point all we ask is generally, again, what is in your possession and control, in addition to searching all areas in your control or within your possession, may we suggest or request that you consider that some documents may have been in some way mixed

up with the documents relating to either other elections, during that time, or even presently.

I don't know the structure of your offices or warehouses or what have you. Perhaps you would be able to discuss with other individuals the possibility that activities in rooms where IOMMP documents may have been kept, now used for the purposes of either conducting or monitoring other business of the AAA, and as such, that documents may have been picked up.

MR. WOLFF: Sure.

MR. YOUNG: Off the record.

(Discussion off the record.)

MR. YOUNG: There are a couple of things more that come to mind.

I recall some, during the course of the Labor Department investigation, I believe that there was a diary kept either by Mrs. Carlson or Mr. Tannenbaum. I might ask you to look for that, either diary or log or memorandum of activities.

And I would like to ask you to look for that specifically.

MR. WOLFF: Shouldn't you describe it? I don't know what you are referring to.

We will look for everything we can find.

But if there is something specific, maybe we will even call them and describe it to them, if we understands what we are asking for.

MR. YOUNG: Well, from my understanding, it is a record of conersations and activities of - it is a daily, day-by-day record. Whether it is Mr. Tannenbaum or Mrs. Carlson or yourself or somebody else, I am not sure.

MR. WOLFF: If I am not mistaken, they are stapled to the phone logs.

We will check further.

MR. YOUNG: May we ask that you call us Friday morning at about ten o'clock to let us know what if anything you find, and to arrange at that time for you to return here either Monday or Tuesday of next week to hopefully conclude this deposition.

MR. WOLFF: Yes.

MR. YOUNG: Is that all right?

MR. WOLFF: Fine.

MR. YOUNG: Okay. Until then, let us adjourn for the day.

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Transcript of Proceedings dated October 25, 1974

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

FILED
OCT 25 1974
S. D. OF N. Y.

JAMES D. HODGSON, Secretary of Labor :
United States Department of Labor,

Plaintiff

:

-v-

72 Civ. 5031
(CBM)

INTERNATIONAL ORGANIZATION OF MASTERS :
MATES AND PILOTS, INTERNATIONAL
MARITIME DIVISION, ILA, AFL-CIO,

Defendant.

:

October 25, 1974
9:45 A.M.

A P P E A R A N C E S :

PAUL J. CURRAN, ESQ.,
United States Attorney for the
Southern District of New York
Attorney for Plaintiff
DENNISON YOUNG, JR., ESQ.
BOBBY C. LAWYER, ESQ.,
Assistant United States Attorneys

PRESENT:

BRIAN O'HANLON
JACQUELINE DAGG

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MR. YOUNG: While we had anticipated being able to further identify the documents in the two transfiles delivered to us yesterday by the AAA, it appears we will be unable to do so. We find it necessary to move for a further order to show cause against the defendant union in connection with certain depositions on the west coast, which order to show cause is consuming much of our time.

Further, until we are advised otherwise by the Court we are assuming that depositions on the west coast will continue, and in view of the fact that it is Friday, we are preparing our materials that we do have for the anticipated depositions.

Accordingly, I would like to ask the court reporter to bear with us and suggest that we adjourn this deposition until a future call early next week.

We appreciate the court reporter's indulgence and I will call you, Mr. Chaim, Tuesday morning to let you know if we are in a position to continue. Even better, if for some reason I know this afternoon, I will get in touch with you. Let's take a recess.

(Time noted: 10:50 a.m.)